Chap. Sec.
33. Coordinated National Boating Safety Program [New] 1451

Chapter 2.—REGISTRY AND RECORDING

§ 77. Tonnage.

* * * * *

From the gross tonnage of every vessel of the United States there shall be deducted—

* * * * *

(e) Space occupied by machinery used exclusively to separate, clarify, purify, or process, a ship's own slop oil mixture, tank-cleaning residue, bilge residue, or other waste materials, including sewage garbage, galley wastes, or trash and space occupied by any tank, tanks, or collection area used exclusively for the carriage or collection of such slop oil mixture, tank-cleaning residue, or other waste materials, but not to exceed a maximum space deduction established by regulations hereunder. The Secretary of the department in which the Coast Guard is operating in consultation with the Administrator of the Environmental Protection Agency, shall issue regulations to define the slop oil mixtures, cleaning residue, and waste materials, establish the maximum deductions which may be made, define the manner in which the spaces shall be used and marked, and as necessary otherwise to carry out the provisions of this paragraph.

(f) In the case of a ship propelled wholly by sails any space, not exceeding 2½ per centum of the gross tonnage, used exclusively for storage of sails: *Provided,* That spaces deducted shall be certified by the collector to be reasonable in extent and properly and efficiently constructed for the purposes for which they are intended, and the words "Certified for storage of sails" to be cut on the beam and over the doorway of such space.

(g) In the case of a vessel which is screw propelled in whole or in part, the following deduction shall be made for the space occupied by the propelling machinery:

(1) Thirty-two thirteenths times the tonnage of the propelling-machinery space, if the tonnage of that space is not more than 13 per centum of the gross tonnage of the vessel and if that space is reasonable in extent: *Provided, however,* That, in lieu thereof, the deduction shall be one and three-fourths times the tonnage of the propelling-machinery space, in the case of a vessel the construction of which was commenced on or before June 4, 1956, if the owner so elects;

(2) Thirty-two per centum of the gross tonnage of the vessel, if the tonnage of the propelling-machinery space is more than 13 per centum and less than 20 per centum of the gross tonnage of the vessel; or

(3) Thirty-two per centum of the gross tonnage of the vessel or one and three-fourths times the tonnage of the propelling-machinery space, whichever the owner of the vessel elects, if the tonnage of that space is 20 per centum or more of the gross tonnage of the vessel.

(h) In the case of a vessel which is propelled in whole or in part by paddle wheels, the following deduction shall be made for the space occupied by the propelling machinery:

(1) Thirty-seven twentieths times the tonnage of the propelling-machinery space, if the tonnage of that space is not more than 20 per centum of the gross tonnage of the vessel and if that space is reasonable in extent: *Provided, however,* That, in lieu thereof, the deduction shall be one and one-half times the tonnage of the propelling-machinery space, in the case of a vessel the construction of which was commenced on or before June 4, 1956, if the owner so elects;

(2) Thirty-seven per centum of the gross tonnage of the vessel, if the tonnage of the propelling-machinery space is more than 20 per centum and less than 30 per centum of the gross tonnage of the vessel; or

(3) Thirty-seven per centum of the gross tonnage of the vessel or one and one-half times the tonnage of the propelling-machinery space, whichever the owner elects, if the tonnage of that space is 30 per centum or more of the gross tonnage of the vessel.

(i) If there be a break, a poop, or any other permanent closed-in space on the upper deck available for cargo or stores, or for the berthing or accommodation of passengers or crew, the tonnage of that space shall be ascertained and added to the gross tonnage: *Provided,* That nothing shall be added to the gross tonnage for any sheltered space above the upper deck which is under cover and open to the weather; that is, not inclosed.

The cubical contents of the hatchways shall be obtained by multiplying the length and breadth together and the product by the mean depth taken from the top of beam to the under side of the hatch. From the aggregate tonnage of the hatchways there shall be deducted one-half of 1 percent of the gross tonnage and the remainder only shall be added to the gross tonnage of the ship exclusive of the tonnage of the hatchways.

(j) On a request in writing to the Commissioner of Customs by the owners of a ship the tonnage of such portion of the space or spaces above the crown of the engine room and above the upper deck as is framed in for the machinery or for the admission of light and air and not required to be added to gross tonnage shall, for the purpose of ascertaining the tonnage of the space occupied by the propelling

power, be added to the tonnage of the engine space; but it shall then be included in the gross tonnage; such space or spaces must be reasonable in extent, safe, and seaworthy, and can not be used for any purpose other than the machinery or for the admission of light and air to the machinery or boilers of the ship.

And the proper deduction from the gross tonnage having been made, the remainder shall be deemed the net or register tonnage of such vessels.

In the case of a ship constructed with a double bottom for water ballast, if the space between the inner and outer plating thereof is certified by the collector to be not available for the carriage of cargo, stores, or fuel, then the depth of the vessel shall be taken to be the upper side of the inner plating of the double bottom, and that upper side shall for the purposes of measurement be deemed to represent the floor timber. From the gross tonnage there shall be deducted any other space adapted only for water ballast certified by the collector not to be available for the carriage of cargo (other than ballast water for use for underwater drilling, mining, and related purposes, including production), stores, supplies, or fuel.

Upon application by the owner or master of an American vessel in foreign trade, collectors of customs, under regulations to be approved by the Commissioner of Customs, are authorized to attach to the register of such vessel an appendix stating separately, for use in foreign ports, the measurements of such space or spaces as are permitted to be deducted from gross tonnage by the rules of other nations and are not permitted by the laws of the United States.

In every vessel documented as a vessel of the United States the number denoting her net tonnage shall be deeply carved or otherwise permanently marked on her main beam, and shall be so continued; and if the number at any time cease to be continued such vessel shall be subject to a fine of $30 on every arrival in a port of the United States if she have not her tonnage number legally carved or permanently marked. (As amended Dec. 18, 1974, Pub. L. 93–524, §§ 1, 2, 88 Stat. 1694.)

AMENDMENTS

1974—Subsec. (e). Pub L. 93–524, § 1, added subsec. (e). Former subsec. (e) redesignated (f).

Subsecs. (f) to (j). Pub. L. 93–524, § 2, redesignated former subsecs. (e) through (i) as (f) through (j), respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 71, 83a, 320 of this title.

Chapter 2A.—LOAD LINES FOR AMERICAN VESSELS

SUBCHAPTER I.—LOADLINES FOR VESSELS MAKING FOREIGN SEA VOYAGES

Sec.
86. Enforcement; regulations; personnel [New].
86a. Definitions [New].
86b. Vessels subject to subchapter [New].
(a) Federal jurisdiction.
(b) Excepted vessels.
(c) Loadline vessels; surrender of loadline certificate; removal of loadline marks.
(d) Treaties or conventions unaffected.
Sec.
86c. Determination of loadlines [New].
(a) Minimum freeboard; criteria.
(b) Marking and maintaining loadlines; issuance of loadline certificate.
(c) Prescribed loadlines; minimum safe freeboard; greater freeboard than minimum freeboard.
86d. Survey or registry of shipping [New].
(a) Appointments for determination of condition of vessels and positioning and marking of loadlines; issuance of loadline certificate.
(b) Appointees.
(c) Revocation of appointments.
86e. Exemptions; certificate of exemption [New].
86f. Foreign vessels [New].
(a) Compliance with subchapter by compliance with loadlines and markings of foreign country and issuance of foreign certificate; international agreement for control of foreign vessels.
(b) Reciprocal loadline recognition.
86g. Loading restrictions, submerging loadlines or loadline marks; recordation by masters of position of loadline marks and actual drafts [New].
86h. Detention of vessels [New].
(a) Reasonable belief; notice to master or officer in charge of vessel; detention order.
(b) Clearance; refusal or withdrawal.
(c) Petition for review; regulations.
(d) Administrative determination.
(e) Liability of owner for costs.
86i. Penalties for violations [New].
(a) Civil liability for violations of subchapter; separate violations.
(b) Civil liability for section 86g(a) violations.
(c) Civil liability for section 86g(b) violations.
(d) Criminal liability for departure in violation of detention orders.
(e) Criminal liability for concealment, removal alteration, defacement, or obliteration of vessel marks, lawful changes; wartime escape from enemy capture.
(f) Liability of vessel.
(g) Administrative assessment, collection, remission, mitigation, or compromise.

SUBCHAPTER I.—LOADLINES FOR VESSELS MAKING FOREIGN SEA VOYAGES

§§ 85 to 85g. Repealed. Pub. L. 93–115, § 12, Oct. 1, 1973, 87 Stat. 421.

Section 85, acts Mar. 2, 1929, ch. 508, § 1, 45 Stat. 1492; May 26, 1939, ch. 151, § 1, 53 Stat. 783; Aug. 31, 1962, Pub. L. 87–620, § 1(1), 76 Stat. 415, related to establishment of loadlines and vessels affected. Subject matter is now covered in part by section 86b(a)(2), (3), (b)(4), (6) of this title.

Sections 85a to 85e, act Mar. 2, 1929, ch. 508, §§ 2–6, 45 Stat. 1493, 1494, related to: determination of loadlines, regulations, and material factors in fixing lines; marking lines on vessels, approval of marks, and issuance of certificate; requirement that vessels be so loaded as not to submerge lines or marks; application of sections 85 to 85g of this title to foreign vessels; and recordation by masters of vessels of position of loadline mark and actual drafts, respectively. Subject is now covered in this title as follows:

Former Sections	*Present Sections*
85a	86, 86c(a)
85b	86c(b), 86d. See 86i
85c	86g(a)
85d	86f
85e	86g(b)

Section 85f, acts Mar. 2, 1929, ch. 508, § 7, 45 Stat. 1494; Aug. 31, 1962, Pub. L. 87–620, § 1(2), 76 Stat. 415, related to detention of vessels loaded in violation of sections 85 to 85g of this title. Subject matter is now covered by section 86h of this title.

Section 85g, acts Mar. 2, 1929, ch. 508, § 8, 45 Stat. 1494; May 26, 1939, ch. 151, § 2, 53 Stat. 783; Aug. 31, 1962, Pub. L. 87–620, § 1(3), 76 Stat. 415, related to penalties for vio-

lations of sections 85 to 85g of this title and seizure of vessels. Subject matter is now covered by section 861 of this title as follows:

Former Section	*Present Section*
85g(a)	861(a), (g)
85g(b)	861(c)
85g(c)	861(b)
85g(d)–(f)	861(d)–(f)

§ 86. Enforcement; regulations; personnel.

The Secretary of the department in which the Coast Guard is operating (hereinafter referred to as "Secretary") shall enforce the provisions of this subchapter and prescribe regulations to carry out its provisions. With the consent of the Secretary of the Treasury, the Secretary may utilize officers of the Bureau of Customs to enforce this subchapter and the regulations established hereunder. (Pub. L. 93–115, § 2, Oct. 1, 1973, 87 Stat. 418.)

CHANGE OF NAME

The Bureau of Customs was designated the United States Custom Service under Treasury Department Ord. No. 165–23, effective Aug. 1, 1973.

SHORT TITLE

Section 1 of Pub. L. 93–115 provided: "That this act [which enacted this subchapter and repealed sections 85 to 85g of this title] may be cited as the 'International Voyage Load Line Act of 1973'."

§ 86a. Definitions.

As used in this subchapter—

(1) "new ship" means a vessel the keel of which is laid (or which is at a similar stage of construction) on or after July 21, 1968; and

(2) "existing ship" means a vessel which is not a "new ship".

(Pub. L. 93–115, § 3, Oct. 1, 1973, 87 Stat. 418.)

§ 86b. Vessels subject to subchapter.

(a) Federal jurisdiction.

This subchapter applies to vessels which—

(1) arrive at any port or place within the jurisdiction of the United States from foreign ports;

(2) make voyages between foreign ports (except foreign vessels engaged in such voyages); or

(3) depart from any port or place within the jurisdiction of the United States for a foreign port.

(b) Excepted vessels.

This subchapter does not apply to—

(1) ships of war;

(2) pleasure craft not used in trade or commerce.

(3) fishing vessels;

(4) existing ships of less than one hundred and fifty gross tons;

(5) new ships of less than seventy-nine feet in length;

(6) vessels which navigate exclusively on the Great Lakes; or

(7) vessels operating on shelter waters between ports of the United States and neighboring countries as provided in any treaty of the United States.

(c) Loadline vessels; surrender of loadline certificate; removal of loadline marks.

A vessel which voluntarily obtains loadlines shall be treated as a vessel subject to this subchapter until its loadline certificate is surrendered and its loadline marks removed.

(d) Treaties or conventions unaffected.

This subchapter does not abrogate any provisions of treaties or conventions in effect, which are not in conflict with the International Convention on Loadlines, 1966, and to which the United States has acceded. (Pub. L. 93–115, § 4, Oct. 1, 1973, 87 Stat. 418.)

§ 86c. Determination of loadlines.

(a) Minimum freeboard; criteria.

The Secretary shall prescribe loadlines, the marking thereof, and associated condition surveys for vessels subject to this subchapter to indicate the minimum freeboard to which each may be safely loaded, giving due consideration to, and making differentials for the service, type, and character of each vessel, and in conformance with applicable international treaties or conventions to which the United States has acceded.

(b) Marking and maintaining loadlines; issuance of loadline certificate.

Loadlines shall be permanently and conspicuously marked and maintained in the manner prescribed by the Secretary. Upon completion of survey requirements and a finding that the loadline is positioned and marked in the manner prescribed, the Secretary shall issue a loadline certificate, to the master or owner of the vessel, which shall be carried on board the vessel.

(c) Prescribed loadlines; minimum safe freeboard; greater freeboard than minimum safe freeboard.

A loadline shall not be established or marked which, in the judgment of the Secretary, authorizes less than the minimum safe freeboard. At the request of the owner a loadline may be established or marked to indicate a greater freeboard than that which the Secretary determines is the minimum safe freeboard; any such loadline shall be the prescribed loadline for purposes of section 86g of this title. (Pub. L. 93–115, § 5, Oct. 1, 1973, 87 Stat. 418.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 86e, 861 of this title.

§ 86d. Survey or registry of shipping.

(a) Appointments for determination of condition of vessels and positioning and marking of loadlines; issuance of loadline certificate.

The Secretary shall appoint the American Bureau of Shipping, or such other United States nonprofit corporations or associations for the survey or registry of shipping which he approves, to determine that a vessel's condition is satisfactory and whether its loadline is positioned and marked in the manner prescribed by the Secretary and thereupon to issue a loadline certificate.

(b) Appointees.

The Secretary may appoint for the purpose of this section:

(1) any officer of the United States, or

(2) at the request of the shipowner, any other corporation or association for the survey or registry of shipping which he approves.

(c) Revocation of appointments.

The Secretary may revoke an appointment under this section at any time. (Pub. L. 93–115, § 6, Oct. 1, 1973, 87 Stat. 419.)

§ 86e. Exemptions; certificate of exemption.

When a vessel subject to this subchapter is shown to be entitled to an exemption from the provisions of this subchapter by an international agreement to which the United States has acceded, a certificate of exemption shall be issued to the vessel, and carried in lieu of the certificate required by section 86c of this title. (Pub. L. 93–115, § 7, Oct. 1, 1973, 87 Stat. 419.)

§ 86f. Foreign vessels.

(a) Compliance with subchapter by compliance with loadlines and markings of foreign country and issuance of foreign certificate; international agreement for control of foreign vessels.

When it is found that the law and regulations in force in a foreign country relating to loadlines are equally effective as this subchapter and the regulations hereunder, or when a foreign country has acceded to an international loadline agreement to which the United States has acceded, the markings and certificate thereof of a vessel of the country shall be accepted as complying with the provisions of this subchapter and regulations hereunder. The control of such vessels shall be as provided in the applicable international agreement.

(b) Reciprocal loadline recognition.

Subsection (a) of this section does not apply to vessels of foreign nations which do not similarly recognize the loadlines prescribed under this subchapter. (Pub. L. 93–115, § 8, Oct. 1, 1973, 87 Stat. 419.)

§ 86g. Loading restrictions, submerging loadlines or loadline marks; recordation by masters of position of loadline marks and actual drafts.

(a) No vessel subject to this subchapter may be so loaded as to submerge the prescribed loadline, or to submerge the point where an appropriate loadline under the subchapter and the prescribed regulations should be marked.

(b) The master of a vessel subject to this subchapter shall, after loading but before departing for a voyage by sea from any port or place in which this subchapter applies, record in the official logbook or other permanent record of the vessel a statement of the relative position of the prescribed loadline mark applicable at the time in question with respect to the water surface, and, of the actual draft of the vessel, forward and aft, at the time, as nearly as they may be ascertained. (Pub. L. 93–115, § 9, Oct. 1, 1973, 87 Stat. 419.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 86c, 861 of this title.

§ 86h. Detention of vessels.

(a) Reasonable belief; notice to master or officer in charge of vessel; detention order.

When the Secretary has reason to believe that a vessel is about to leave a port in the United States, or its possessions in violation of this subchapter or the regulations hereunder, the Secretary may, upon notifying the master or officer in charge of the vessel, order the vessel detained.

(b) Clearance; refusal or withdrawal.

Clearance required by section 91 of this title shall be refused or withdrawn from any vessel so detained until correction of deficiencies.

(c) Petition for review; regulations.

The master or officer in charge of a vessel may petition the Secretary, in a manner prescribed by regulation, to review the detention order.

(d) Administrative determination.

Upon receipt of a petition, the Secretary may withdraw the detention order, modify it, or require independent surveys as may be necessary to determine the extent of deficiencies. Upon completion of his review, including results of any required independent surveys he shall affirm, set aside, or modify the detention order.

(e) Liability of owner for costs.

The owner of a vessel is liable for any costs incident to a petition for review and any independent surveys if the vessel is found to be in violation of this subchapter or the regulations hereunder. (Pub. L. 93–115, § 10, Oct. 1, 1973, 87 Stat. 420.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 861 of this title.

§ 86i. Penalties for violations.

(a) Civil liability for violations of subchapter; separate violations.

Except as otherwise provided in this section, the owner and the master of a vessel found in violation of this subchapter or the regulations thereunder, are each liable to a civil penalty of not more than $1,000 for each day the vessel is in violation.

(b) Civil liability for section 86g(a) violations.

Each person, if the owner, manager, agent, or master of a vessel who knowingly allows, causes, attempts to cause, or fails to take reasonable care to prevent the violation of section 86g(a) of this title or the regulations thereunder, is liable to a civil penalty of not more than $1,000 plus an additional amount of not more than $500 per inch of unlawful submergence.

(c) Civil liability for section 86g(b) violations.

For any violation of subsection (b) of section 86g of this title or the regulations thereunder, the master of the vessel is liable to a civil penalty of not more than $500.

(d) Criminal liability for departures in violation of detention orders.

Any person who knowingly causes or permits the departure of a vessel from any port or place within the jurisdiction of the United States or its possessions in violation of a detention order pursuant to section 86h of this title, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(e) Criminal liability for concealment, removal, alteration, defacement, or obliteration of vessel marks, lawful changes; wartime escape from enemy capture.

Any person who causes or allows the concealment, removal, alteration, defacement, or obliteration of any mark placed on a vessel pursuant to section 86c

of this title and the regulations thereunder, except in the event of a lawful change or to escape enemy capture in time of war, shall be fined not more than $2,000 or imprisoned not more than two years or both.

(f) Liability of vessel.

For any penalty under this section the vessel is also liable.

(g) Administrative assessment, collection, remission, mitigation, or compromise.

The Secretary may assess and collect any civil penalty incurred under this subchapter and, in his discretion, remit, mitigate, or comprise any penalty prior to referral to the Attorney General. (Pub. L. 93–115, § 11, Oct. 1, 1973, 87 Stat. 420.)

SUBCHAPTER II.—LOAD LINES FOR VESSELS ENGAGED IN COASTWISE TRADE

§ 88. Establishment; vessels affected; exemptions.

* * * * *

(b) All cannery tender or fishing tender vessels of not more than five hundred gross tons used in the salmon or crab fisheries of the States of Oregon, Washington, and Alaska except those constructed after July 11, 1968 or those converted to either of such services after five years from July 11, 1968, and all vessels of not more than five thousand gross tons used in the processing or assembling of fishery products in the fisheries of the States of Oregon, Washington, and Alaska, except those constructed after August 15, 1974, or those converted to any of such services after July 11, 1978, are exempt from the requirements of sections 88 to 88i of this title. (As amended Oct. 1, 1974, Pub. L. 93–430, § 6(1), 88 Stat. 1182.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–430 added vessels of not more than five thousand gross tons used in the processing or assembling of fishery products in the fisheries of the States of Oregon, Washington, and Alaska, except those constructed after Aug. 15, 1974, or those converted to any of such services after July 11, 1978, to the exception clause.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 88a to 88i of this title.

Chapter 3.—CLEARANCE AND ENTRY

§ 91. Granting clearances.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 86h of this title; title 33 sections 1321, 1517.

Chapter 7.—CARRIAGE OF EXPLOSIVES OR DANGEROUS SUBSTANCES

§ 170. Regulation of carriage of explosives or other dangerous articles on vessels.

* * * * *

(6) Transportation, etc., of other explosives or other dangerous articles; exceptions.

(a) It shall be unlawful knowingly to transport, carry, convey, store, stow, or use (except as fuel for its own machinery) on board any vessel, except one specifically exempted by paragraph (b) of this subsection, any other explosives or other dangerous articles or substances, including flammable or combustible liquids, flammable solids, oxidizing materials, corrosive liquids, compressed gases, poisonous articles or substances, hazardous articles, and ships' stores and supplies of a dangerous nature, except as permitted by the regulations of the Commandant of the Coast Guard established hereunder. The provisions of this subsection shall apply to the transportation, carriage, conveyance, storage, stowing, or use on board any passenger vessel of any barrel, drum, or other package containing any flammable or combustible liquid which has a lower flash point than that which is defined as safe pursuant to regulations establishing the defining flash-point criteria for flammable and combustible liquids. Such regulations shall be prescribed, and revised as necessary, by the Secretary of Transportation.

(b) This subsection shall not apply to—

(i) vessels not exceeding fifteen gross tons when not engaged in carrying passengers for hire;

(ii) vessels used exclusively for pleasure;

(iii) vessels not exceeding five hundred gross tons while engaged in the fisheries;

(iv) tugs or towing vessels: *Provided, however,* That any such vessel, when engaged in towing any vessel that has explosives, flammable or combustible liquids, or inflammable compressed gases on board on deck, shall be required to make such provisions to guard against and extinguish fire as shall be prescribed by the Commandant of the Coast Guard;

(v) cable vessels, dredges, elevator vessels, fireboats, ice-breakers, pile drivers, pilot boats, welding vessels, salvage and wrecking vessels;

(vi) inflammable or combustible liquid cargo in bulk: *Provided, however,* That the handling and stowage of any inflammable or combustible liquid cargo in bulk shall be subject to the provisions of section 391a of this title.

* * * * *

(14) Criminal penalty for violation of section or regulations; liability of vessel.

* * * * *

Whoever shall knowingly violate any of the provisions of this section or of any regulations established under this section shall be subject to a criminal penalty of not more than $2,000 or imprisoned not more than 5 years, or both, for each violation. In the case of any such violation on the part of the owner, charterer, agent, master, or person in charge of the vessel, such vessel shall be liable for the penalty and may be seized and proceeded against by way of libel in the district court of the United States in any district in which such vessel may be found.

* * * * *

(17) Civil penalty for violation of section or regulations; assessment; criteria; action by Attorney General; compromise by Secretary; deduction from any Federal obligation; deposit in Treasury.

(A) Any person (except an employee who acts without knowledge) who is determined by the Secretary, after notice and an opportunity for a hearing, to have knowingly committed an act which is a violation of any provision of this section, or of any regulation issued under this section, shall be liable to the United States for a civil penalty of not more than $10,000 for each day of each violation. The

amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(B) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States, in the appropriate district court of the United States or, prior to referral to the Attorney General, such civil penalty may be compromised by the Secretary. The amount of such penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums owed by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts. (As amended Jan. 3, 1975, Pub. L. 93–633, title I, § 113(a), (f), 88 Stat. 2161, 2163.)

AMENDMENTS

1975—Par. (6)(a). Pub. L. 93–633, § 113(f)(1), substituted "flammable" for "inflammable" wherever appearing, inserted "or combustible" preceding "liquids", incorporated substance of former proviso in the penultimate sentence, included therein reference to any flammable liquid, substituted provision for a standard based on lower flash point for the liquid than is defined as safe pursuant to regulations establishing the defining flash-point criteria for flammable and combustible liquids for prior provision respecting transportation of the combustible liquid which gives off inflammable vapors (as defined by flash-point in open cup tester as used for test of burning oil) at or below a temperature of 150 degrees Fahrenheit and above 80 degrees Fahrenheit, and authorized the Secretary of Transportation to prescribe regulations and revise them when necessary.

Par. (6)(b)(iv). Pub. L. 93–633, § 113(f)(2), substituted "flammable or combustible liquids" for "inflammable liquids".

Par. (14). Pub. L. 93–633, § 113(a)(1), in the first sentence, inserted "criminal" preceding "penalty" and "or imprisoned not more than 5 years, or both" preceding "for each violation".

Par. (17). Pub. L. 93–633, § 113(a)(2), added par. (17).

EFFECTIVE DATE OF 1975 AMENDMENT; CONTINUANCE OF PRIOR PROVISIONS; TWO YEAR LIMITATION AFTER JAN. 3, 1975, FOR ARRANGEMENTS, INCLUDING LICENSES, ETC., TO COMPLY WITH PUB. L. 93–633; PENDING PROCEEDINGS UNAFFECTED

Amendment by Pub. L. 93–633 effective Jan. 3, 1975, except as otherwise provided, see section 114 of Pub. L. 93–633, set out as a note under section 1801 of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 170a, 170b, 362, 391a, 467 of this title; title 7 section 136q; title 15 section 2052.

Chapter 10A.—REGULATION OF GREAT LAKES PILOTS AND PILOTAGE

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 49 section 1655.

§ 216b. Registration of United States pilots.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1903.

Chapter 11.—OFFICERS AND CREWS OF VESSELS

§ 239. Investigation of marine casualties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 391a of this title; title 49 section 1903.

§§ 239a, 239b.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in title 49 section 1903.

Chapter 12.—REGULATION OF VESSELS IN DOMESTIC COMMERCE

§ 288. Repealed. Pub. L. 85–911, § 12, Sept. 2, 1958, 72 Stat. 1758, eff. Apr. 1, 1960.

REPEAL

Section 12 of Pub. L. 85–911, Sept. 2, 1958, 72 Stat. 1758, was repealed by Pub. L. 92–75, § 41(a)(2), Aug. 10, 1971, 85 Stat. 228.

Chapter 14.—INSPECTION OF STEAM VESSELS

§ 367. Seagoing vessels propelled by internal-combustion engines; exemptions.

Existing laws covering the inspections of steam vessels are made applicable to seagoing vessels of three hundred gross tons and over propelled in whole or in part by internal-combustion engines to such extent and upon such conditions as may be required by the regulations of the Commandant of the Coast Guard: *Provided,* That this section shall not apply to any vessel engaged in fishing, oystering, clamming, crabbing, or any other branch of the fishery or kelp or sponge industry. As used herein, the phrase "any vessel" engaged in fishing, oystering, clamming, crabbing, or any other branch of the fishery or kelp or sponge industries includes cannery tender or fishing tender vessels of not more than five hundred gross tons used in the salmon or crab fisheries of the States of Oregon, Washington, and Alaska which are engaged exclusively in (1) the carriage of cargo to or from vessels in the fishery or a facility used or to be used in the processing or assembling of fishery products, or (2) the transportation of cannery or fishing personnel to or from operating locations, and vessels of not more than five thousand gross tons used in the processing or assembling of fishery products in the fisheries of the States of Oregon, Washington, and Alaska. The exemptions in the preceding sentence for cannery tender, and fishing tender vessels and vessels used in processing or assembling fishery products shall continue in force until July 11, 1978: *Provided further,* That as to licenses required for masters and engineers operating vessels propelled by internal-combustion engines operating exclusively in the district covering the Hawaiian Islands, said masters and engineers shall be under the jurisdiction of the Coast Guard officials having jurisdiction over said waters, who shall make diligent inquiry as to the character, merits, and qualifications, and knowledge and skill of any master or engineer applying for a license. If the said Coast Guard officials shall be satisfied from personal examination of the applicant and from other proof submitted that the applicant possesses the requisite character, merits, qualifications, knowledge, and skill, and is trustworthy and

faithful, they shall grant him a license for the term of five years to operate such vessel under the limits prescribed in the license. The term "seagoing vessels" as used in this section shall be construed to mean vessels which in the usual course of their employment proceed outside the line dividing the inland waters from the high seas as designated and determined under the provisions of section 151 of Title 33. (As amended July 9, 1973, Pub. L. 93–65, § 6(a), 87 Stat. 151; Oct. 1, 1974, Pub. L. 93–430, § 6(2), 88 Stat. 1182.)

AMENDMENTS

1974—Pub. L. 93–430, in the first proviso, substituted definition of "any vessel" for "any vessel engaged in the fishing, oystering, clamming, crabbing, or any other branch of the fishery or kelp or sponge industries", and added vessels used in processing, or assembling fishery products in provisions relating to the continuation of exemptions until July 11, 1978.

1973—Pub. L. 93–65 extended termination date for cannery tender or fishery tender vessel exemption from a date five years from July 11, 1968, to a date five years from July 11, 1973.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 526r of this title.

§ 369. Examination and approval by Commandant of the Coast Guard.

* * * * *

(b) Approval condition precedent to certificate of inspection; alterations in plans after approval; acceptance of plans approved by American Bureau of Shipping.

No passenger vessel of the United States of one hundred gross tons and over, propelled by machinery, the construction or material alteration of which shall be begun subsequent to May 27, 1936, shall be granted a certificate of inspection by the Coast Guard unless the said general contract plans and specifications therefor shall have been submitted at least in triplicate to and approved by the aforesaid Commandant of the Coast Guard before the construction of such vessel or alteration thereof shall have been commenced; nor shall any such vessel, the said plans or specifications for which have been materially altered subsequent to such approval be granted a certificate, as aforesaid, unless such altered plans and specifications shall have been submitted at least in triplicate to and approved by the said Commandant, prior to such change in construction having been made. No such certificate shall be granted to any such vessel which has not been constructed and equipped in accordance with said plans and specifications approved as aforesaid: *Provided,* That approved plans and certificates of the American Bureau of Shipping classed vessels may be accepted by the Commandant as evidence of the structural efficiency of the hull and the reliability of the machinery of such vessels, except as far as existing law places definite responsibility on the Coast Guard. The American Bureau of Shipping shall continue to function in connection with the Government, its bureaus, departments, boards, and commissions, as heretofore provided by section 881 of this title, and as provided in sections 85 to 85g of this title, or any similar Act hereinafter enacted. After November 1, 1970, no passenger vessel of the United States of one hundred gross tons or over, having berth or stateroom accommodations for fifty or more passengers, shall be granted a certificate of inspection by the Coast Guard unless the vessel is constructed of fire-retardant material, except that this requirement shall not apply until November 1, 1978, with respect to a vessel operating solely on the inland rivers. The structural fire protection provided on these vessels shall conform to the requirements set forth in regulations for a vessel contracted for on or after May 28, 1936.

* * * * *

(As amended Aug. 16, 1973, Pub. L. 93–106, § 2, 87 Stat. 350.)

REFERENCES IN TEXT

Sections 85 to 85g of this title, referred to in text, were repealed by Pub. L. 93–115, § 12, Oct. 1, 1973, 87 Stat. 421, and are now covered by sections 86 to 86i of this title.

AMENDMENTS

1973—Subsec. (b). Pub. L. 93–106 excepted until November 1, 1978, vessels operating solely on the inland rivers from the requirement that vessels be constructed of fire retardant material.

EXEMPTION OF STEAMBOAT DELTA QUEEN FROM THE SAFETY-AT-SEA LAWS

Section 1 of Pub. L. 93–106 provided: "That the primary purpose of the amendment made by section 2 of this Act [amending subsec. (b) of this section] is to assure the continuity of operation of the overnight riverboat, the steamboat Delta Queen, by extending her existing exemption from the safety-at-sea laws. A new overnight passenger riverboat will be constructed by the owners of the Delta Queen and, in order to assure the preservation of this historic and traditional piece of American folklore and life, such amendment will provide for the continued operation of the present steamboat Delta Queen while the new riverboat is being constructed."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 416 of this title.

§ 375. Regulations of the Commandant.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 136q.

§ 391a. Vessels carrying certain cargoes in bulk.

(1) Statement of policy.

The Congress hereby finds and declares—

That the carriage by vessels of certain cargoes in bulk creates substantial hazards to life, property, the navigable waters of the United States (including the quality thereof) and the resources contained therein and of the adjoining land, including but not limited to fish, shellfish, and wildlife, marine and coastal ecosystems and recreational and scenic values, which waters and resources are hereafter in this section referred to as the "marine environment."

That existing standards for the design, construction, alteration, repair, maintenance and operation of such vessels must be improved for the adequate protection of the marine environment.

That it is necessary that there be established for all such vessels documented under the laws of the United States or entering the navigable waters of the United States comprehensive minimum standards of design, construction, alteration, repair, maintenance, and operation to prevent or mitigate the hazards to life, property, and the marine environment.

(2) Vessels included.

All vessels, regardless of tonnage size, or manner of propulsion, and whether self-propelled or not, and whether carrying freight or passengers for hire or not, which are documented under the laws of the United States or enter the navigable waters of the United States, except public vessels other than those engaged in commercial service, that shall have on board liquid cargo in bulk which is—

(A) inflammable or combustible, or

(B) oil, of any kind or in any form, including but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil, or

(C) designated as a hazardous polluting substance under section 12(a) of the Federal Water Pollution Control Act (33 U.S.C. 1162);

shall be considered steam vessels for the purposes of title 52 of the Revised Statutes of the United States and shall be subject to the provisions thereof: *Provided,* That (i) this section shall not apply to vessels having on board the substances set forth in (A), (B), or (C) above only for use as fuel or stores or to vessels carrying such cargo only in drums, barrels, or other packages;

(ii) nothing contained herein shall be deemed to amend or modify the provisions of section 4 of Public Law 93–397 with respect to certain vessels of not more than five hundred gross tons;

(iii) this section shall not apply to vessels of not more than five thousand gross tons used in the processing and assembling of fishery products in the fisheries of the States of Oregon, Washington, and Alaska and such vessels shall be allowed to have on board inflammable or combustible cargo in bulk to the extent and upon conditions as may be required by the Secretary of the department in which the Coast Guard is operating; and

(iv) this section shall not apply to vessels of not more than five hundred gross tons documented in the service of oil exploitation which are not tank vessels and which would be subject to this section only because of the transfer of fuel from the vessels' own fuel supply tanks to offshore drilling or production facilities.

(3) Rules and regulations.

In order to secure effective provision (A) for vessel safety, and (B) for protection of the marine environment, the Secretary of the department in which the Coast Guard is operating (hereafter referred to in this section as the "Secretary") shall establish for the vessels to which this section applies such additional rules and regulations as may be necessary with respect to the design and construction, alteration, repair, and maintenance of such vessels, including, but not limited to, the superstructures, hulls, places for stowing and carrying such cargo, fittings, equipment, appliances, propulsive machinery, auxiliary machinery, and boilers thereof; and with respect to all materials used in such construction, alteration, or repair; and with respect to the handling and stowage of such cargo, the manner of such handling or stowage, and the machinery and appliances used in such handling and stowage; and with respect to equipment and appliances for life saving, fire protection, and the prevention and mitigation of damage to the marine environment; and with respect to the operation of such vessels; and with respect to the requirements of the manning of such vessels and the duties and qualifications of the officers and crew thereof; and with respect to the inspection of all the foregoing. In establishing such rules and regulations the Secretary may, after hearing as provided in subsection (4), adopt rules of the American Bureau of Shipping or similar American classification society for classed vessels insofar as such rules pertain to the efficiency of hulls and the reliability of machinery of vessels to which this section applies. In establishing such rules and regulations, the Secretary shall give due consideration to the kinds and grades of such cargo permitted to be on board such vessel. In establishing such rules and regulations the Secretary shall, after consultation with the Secretary of Commerce and the Administrator of the Environmental Protection Agency, identify those established for protection of the marine environment and those established for vessel safety.

(4) Adoption of rules and regulations.

Before any rules or regulations, or any alteration, amendment, or repeal thereof, are approved by the Secretary under the provisions of this section, except in an emergency, the Secretary shall (A) consult with other appropriate Federal departments and agencies, and particularly with the Administrator of the Environmental Protection Agency and the Secretary of Commerce, with regard to all rules and regulations for the protection of the marine environment, (B) publish proposed rules and regulations, and (C) permit interested persons an opportunity for hearing. In prescribing rules or regulations, the Secretary shall consider, among other things, (i) the need for such rules or regulations, (ii) the extent to which such rules or regulations will contribute to safety or protection of the marine environment, and (iii) the practicability of compliance therewith, including cost and technical feasibility.

(5) Rules and regulations for safety; inspection; permits; foreign vessels.

No vessel subject to the provisions of this section shall, after the effective date of the rules and regulations for vessel safety established hereunder, have on board such cargo, until a certificate of inspection has been issued to such vessel in accordance with the provisions of title 52 of the Revised Statutes of the United States and until a permit has been endorsed on such certificate of inspection by the Secretary, indicating that such vessel is in compliance with the provisions of this section and the rules and regulations for vessel safety established hereunder, and showing the kinds and grades of such cargo that such vessel may have on board or transport. Such permit shall not be endorsed by the Secretary on such certificate of inspection until such vessel has been inspected by the Secretary and found to be in compliance with the provisions of this section and the rules and regulations for vessel safety established hereunder. For the purpose of such inspection, approved plans and certificates of class of the American Bureau of Shipping or other recognized classification society for classed vessels may be accepted as evidence of the struc-

tural efficiency of the hull and the reliability of the machinery of such classed vessels except as far as existing law places definite responsibility on the Coast Guard. A certificate issued under the provisions of this section shall be valid for a period of time not to exceed the duration of the certificate of inspection on which such permit is endorsed, and shall be subject to revocation by the Secretary whenever he shall find that the vessel concerned does not comply with the conditions upon which such permit was issued: *Provided,* That rules and regulations for vessel safety established hereunder and the provisions of this subsection shall not apply to vessels of a foreign nation having on board a valid certificate of inspection recognized under law or treaty by the United States: *And provided further,* That no permit shall be issued under the provisions of this section authorizing the presence on board any vessel of any of the materials expressly prohibited from being thereon by subsection (3) of section 170 of this title.

(6) Rules and regulations for protection of the marine environment; inspection; certification.

No vessel subject to the provisions of this section shall, after the effective date of rules and regulations for protection of the marine environment, have on board such cargo, until a certificate of compliance, or an endorsement on the certificate of inspection for domestic vessels, has been issued by the Secretary indicating that such vessel is in compliance with such rules and regulations. Such certificate of compliance or endorsement shall not be issued by the Secretary until such vessel has been inspected by the Secretary and found to be in compliance with the rules and regulations for protection of the marine environment established hereunder. A certificate of compliance or an endorsement issued under this subsection shall be valid for a period specified therein by the Secretary and shall be subject to revocation whenever the Secretary finds that the vessel concerned does not comply with the conditions upon which such certificate endorsement was issued.

(7) Rules and regulations for protection of the marine environment relating to vessel design and construction, alteration, and repair; international agreement.

(A) The Secretary shall begin publication as soon as practicable of proposed rules and regulations setting forth minimum standards of design, construction, alteration, and repair of the vessels to which this section applies for the purpose of protecting the marine environment. Such rules and regulations shall, to the extent possible, include but not be limited to standards to improve vessel maneuvering and stopping ability and otherwise reduce the possibility of collision, grounding, or other accident, to reduce cargo loss following collision, grounding, or other accident, and to reduce damage to the marine environment by normal vessel operations such as ballasting and deballasting, cargo handling, and other activities.

(B) The Secretary shall cause proposed rules and regulations published by him pursuant to subsection (7)(A) to be transmitted to appropriate international forums for consideration as international standards.

(C) Rules and regulations published pursuant to subsection (7)(A) shall be effective not earlier than January 1, 1974, with respect to foreign vessels and United States-flag vessels operating in the foreign trade, unless the Secretary shall earlier establish rules and regulations consonant with international treaty, convention, or agreement, which generally address the regulation of similar topics for the protection of the marine environment. In absence of the promulgation of such rules and regulations consonant with international treaty, convention, or agreement, the Secretary shall establish an effective date not later than January 1, 1976, with respect to foreign vessels and United States-flag vessels operating in the foreign trade, for rules and regulations previously published pursuant to this subsection (7) which he then deems appropriate. Rules and regulations published pursuant to subsection (7)(A) shall be effective not later than June 30, 1974, with respect to United States-flag vessels engaged in the coastwise trade.

(D) Any rule or regulation for protection of the marine environment promulgated pursuant to this subsection (7) shall be equally applicable to foreign vessels and United States-flag vessels operating in the foreign trade. If a treaty, convention, or agreement provides for reciprocity of recognition of certificates or other documents to be issued to vessels by countries party thereto, which evidence compliance with rules and regulations issued pursuant to such treaty, convention, or agreement, the Secretary, in his discretion, may accept such certificates or documents as evidence of compliance with such rules and regulations in lieu of the certificate of compliance otherwise required by subsection (6) of this section.

(8) Shipping documents.

Vessels subject to the provisions of this section shall have on board such shipping documents as may be prescribed by the Secretary indicating the kinds, grades, and approximate quantities of such cargo on board such vessel, the shippers and consignees thereof, and the location of the shipping and destination points.

(9) Officers; tankermen; certification.

(A) In all cases where the certificate of inspection does not require at least two licensed officers, the Secretary shall enter in the permit issued to any vessel under the provisions of this section the number of the crew required to be certified as tankermen.

(B) The Secretary shall issue to applicants certificates as tankermen, stating the kinds of cargo the holder of such certificate is, in the judgment of the Secretary, qualified to handle aboard vessels with safety, upon satisfactory proof and examination, in form and manner prescribed by the Secretary, that the applicant is in good physical condition, that such applicant is trained in and capable efficiently to perform the necessary operations aboard vessels having such cargo on board, and that the applicant fulfills the qualifications of tankerman as prescribed by the Secretary under the provisions of this section. Such certificates shall be subject to suspension or revocation on the same grounds and in the same manner and with like procedure as is provided

in the case of suspension or revocation of licenses of officers under the provisions of section 239 of this title.

(10) Effective date of rules and regulations.

Except as otherwise provided herein, the rules and regulations to be established pursuant to this section shall become effective ninety days after their promulgation unless the Secretary shall for good cause fix a different time. If the Secretary shall fix an effective date later than ninety days after such promulgation, his determination to fix such a later date shall be accompanied by an explanation of such determination which he shall publish and transmit to the Congress.

(11) Penalties.

(A) The owner, master, or person in charge of any vessel subject to the provisions of this section, or any or all of them, who shall violate the provisions of this section, or the rules and regulations established hereunder, shall be liable to a civil penalty of not more than $10,000.

(B) The owner, master, or person in charge of any vessel subject to the provisions of this section, or any or all of them, who shall knowingly and willfully violate the provisions of this section or the rules and regulations established hereunder, shall be subject to a fine of not less than $5,000 or more than $50,000, or imprisonment for not more than five years, or both.

(C) Any vessel subject to the provisions of this section, which shall be in violation of this section or the rules and regulations established hereunder, shall be liable in rem and may be proceeded against in the United States district court for any district in which the vessel may be found.

(12) Injunctive proceedings.

The United States district courts shall have jurisdiction for cause shown to restrain violations of this section or the rules and regulations promulgated hereunder.

(13) Denial of entry.

The Secretary may, subject to recognized principles of international law, deny entry into the navigable waters of the United States to any vessel not in compliance with the provisions of this section or the regulations promulgated thereunder. (As amended July 10, 1972, Pub. L. 92–340, title II, § 201, 86 Stat. 427; Nov. 16, 1973, Pub. L. 93–153, title IV, § 401, 87 Stat. 589; Oct. 1, 1974, Pub. L. 93–430, § 6(3), 88 Stat. 1183.)

REFERENCES IN TEXT

Provisions of section 4 of Pub. L. 90–397, referred to in subsec. (2), amended former subsec. (1) of this section. For changes made, see 1968 amendment note below.

The Federal Water Pollution Control Act, referred to in subsec. (2)(C), was completely revised and amended by Pub. L. 92–500, Oct. 18, 1972, 86 Stat. 816, and is now classified to chapter 26 (section 1251 et seq.) of Title 33, Navigation and Navigable Waters.

Title 52 of the Revised Statutes of the United States, referred to in subsecs. (2), (5), means sections 4399 to 4500 of the Revised Statutes, which are classified to this section and sections 170, 214, 215, 222, 224, 224a, 226, 228, 229, 230 to 234, 239, 240, 361, 362, 364, 372, 375, 391, 392, 393, 399, 400, 402 to 414, 416, 435, 436, 451 to 453, 460, 461, 462, 467, 470, 471, 473, 477 to 482, 489, and 491 to 498 of this title.

AMENDMENTS

1974—Subsec. (2). Pub. L. 93–430 substantially reenacted existing three provisos and redesignated them cls. (i), (ii), and (iv), and added cl. (iii).

1973—Subsec. (7)(C). Pub. L. 93–153 inserted "with respect to foreign vessels and United States-flag vessels operating in the foreign trade," in two places and provided that rules and regulations published pursuant to subsec. (7)(A) be effective not later than June 30, 1974, with respect to United States-flag vessels engaged in the coast-wise trade.

1972—Subsec. (1). Pub. L. 92–340 added subsec. (1). Former subsec. (1) redesignated (2).

Subsec. (2). Pub. L. 92–340 redesignated former subsec. (1) as subsec. (2) and in subsec. (2) so redesignated, expanded the definition of steam vessels to include vessels documented under the laws of the United States or entering the navigable waters of the United States that have on board oil of any kind and other liquid cargo in bulk designated as a hazardous polluting substance, incorporated provisions relating to certain fishing vessels of not more than five hundred tons by reference to section 4 of Pub. L. 90–397, and added exception relating to vessels of not more than five hundred tons engaged in oil exploitation services. Former subsec. (2) redesignated (3).

Subsec. (3). Pub. L. 92–340 redesignated former subsec. (2) as subsec. (3) and in subsec. (3) so redesignated reenacted existing provisions with minor changes such as enumerating the purposes of the rules as vessel safety and protection of marine environment, and substituting Secretary of the Department in which the Coast Guard is operating for Commandant of Coast Guard, and adding provision that in establishing rules and regulations, the Secretary shall consult with the Secretary of Commerce and Administrator of the Environmental Protection Agency and identify the rules established for the protection of the marine environment and those established for vessel safety. Former subsec. (3) redesignated (4).

Subsec. (4). Pub. L. 92–340 redesignated former subsec. (3) as subsec. (4) and in subsec. (4) so redesignated, substituted Secretary for Commandant of Coast Guard, and further substituted elaborate provisions relating to consultation, publication and hearing for simple requirement of notice and hearing. Former subsec. (4) redesignated (5).

Subsec. (5). Pub. L. 92–340 redesignated former subsec. (4) as subsec. (5) and in subsec. (5) so redesignated, substituted "Secretary" for "Coast Guard" in three places, "rules and regulations for vessel safety" for "rules and regulations," "cargo" for "liquid cargo" and "certificate" for "permit" in one place. Former subsec. (5) redesignated (8).

Subsec. (6). Pub. L. 92–340 added subsec. (6). Former subsec. (6) redesignated (9).

Subsec. (7) Pub. L. 92–340 added subsec (7). Former subsec. (7) redesignated (11).

Subsec. (8). Pub. L. 92–340 redesignated former subsec. (5) as subsec. (8), and in subsec. (8) so redesignated, reenacted existing provisions and substituted "Secretary" for "Commandant of the Coast Guard" and "cargo" for "liquid cargo". Former subsec. (8) redesignated (10).

Subsec. (9). Pub. L. 92–340 redesignated former subsec. (6) as subsec. (9) and in subsec. (9) so redesignated, substituted "Secretary" for "Coast Guard" and "Commandant of the Coast Guard", and "cargo" for "liquid cargo".

Subsec. (10). Pub. L. 92–340 redesignated former subsec. (8) as subsec. (10) and in subsec. (10) so redesignated, inserted "Except as otherwise provided herein," preceding "the rules and regulations", substituted "Secretary" for "Commandant of the Coast Guard" and added provision that the Secretary submit an explanation to the Congress when he fixes an effective date later than ninety days.

Subsec. (11). Pub. L. 92–340 redesignated former subsec. (7) as par. (A) of this subsection and in part. (A) so redesignated, substituted civil penalty of not more than $10,000 for penalties of a fine of not more than $1,000 or imprisonment for not more than one year or both fine and imprisonment, and added pars. (B) and (C).

Subsec. (12). Pub. L. 92–340 added subsec. (12).

Subsec. (13). Pub. L. 92–340 added subsec. (13).

SAVINGS PROVISION

Section 202 of Pub. L. 92–340 provided that: "Regulations previously issued under statutory provisions repealed, modified, or amended by this title [which amended this section] shall continue in effect as though promulgated under the authority of section 4417a of the Revised Statutes of the United States (46 U.S.C. 391a), as amended by this title [this section], until expressly abrogated, modified, or amended by the Secretary of the Department in which the Coast Guard is operating under the regulatory authority of such section 4417a as so amended. Any proceeding under such section 4417a for a violation which occurred before the effective date of this title [July 10, 1972] may be initiated or continued to conclusion as though such section 4417a had not been amended hereby."

REPORT TO CONGRESS

Section 203 of Pub. L. 92–340 provided that: "The Secretary of the Department in which the Coast Guard is operating shall, for a period of ten years following the enactment of this title [July 10, 1972], make a report to the Congress at the beginning of each regular session, regarding his activities under this title [amending this section]. Such report shall include but not be limited to (A) a description of the rules and regulations prescribed by the Secretary (i) to improve vessel maneuvering and stopping ability and otherwise reduce the risks of collisions, groundings, and other accidents, (ii) to reduce cargo loss in the event of collisions, groundings, and other accidents, and (iii) to reduce damage to the marine environment from the normal operation of the vessels to which this title applies, (B) the progress made with respect to the adoption of international standards for the design, construction, alteration, and repair of vessels to which this title applies for protection of the marine environment, and (C) to the extent that he Secretary finds standards with respect to the design, construction, alteration, and repair of vessels for the purposes set forth in (A) (i), (ii), or (iii) above not possible, an explanation of the reasons therefor."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 170, 170b, 467, 526 of this title; title 33 section 1221; title 49 sections 903, 1806.

§ 404. Inspection of ferryboats, canal boats, and small craft; regulations; exemptions.

The hulls and boilers of every ferryboat, canal boat, yacht or other small craft of like character propelled by steam, shall be inspected under the provisions of this title. Such other provisions of law for the better security of life as may be applicable to such vessels shall, by the regulations of the Secretary of the department in which the Coast Guard is operating, also be required to be complied with before a certificate of inspection shall be granted, and no such vessel shall be navigated without a licensed engineer and a licensed pilot: *Provided,* That in open steam launches of ten gross tons and under, one person, if duly qualified, may serve in the double capacity of pilot and engineer. All vessels of above fifteen gross tons carrying freight for hire and all vessels of above fifteen gross tons and in excess of sixty-five feet in length carrying passengers for hire, but not engaged in fishing as a regular business, propelled by gas, fluid, naphtha, or electric motors, shall be subject to all the provisions of this section relating to the inspection of hulls and boilers and requiring engineers and pilots, and for any violation of the provisions of title 52 of the Revised Statutes applicable to such vessels, or of rules or regulations lawfully established thereunder, and to the extent to which such provisions of law and regulations are so applicable, the said vessels, their masters, officers, and owners shall be subject to the provisions of sections 494 to 498 of this title, relating to the imposition and enforcement of penalties and the enforcement of law: *Provided, however,* That until June 30, 1956, no vessel registered or licensed as a vessel of the United States of fifteen gross tons or less on December 31, 1953, shall be deemed to be subject to the inspection provisions of this section notwithstanding the fact that such vessel may thereafter be found to have a tonnage in excess of fifteen gross tons, unless such finding results from an alteration in the length, breadth, or depth effected after December 31, 1953: *Provided further,* That no vessel under one hundred and fifty gross tons, owned by or demise chartered to any cooperative or association engaged solely in transporting cargo owned by any one or more of the members of such cooperative or association on a nonprofit basis (1) between places within the inland waters of southeastern Alaska, as defined pursuant to section 151 of Title 33, or (2) between places within said inland waters of southeastern Alaska and Prince Rupert, British Columbia, or (3) between places within said inland waters of southeastern Alaska and places within the inland waters of the State of Washington, as also defined pursuant to such section, via sheltered waters, as defined in article I, of the Treaty between United States and Canada defining certain waters of the west coast of North America as sheltered waters, dated December 9, 1933, shall be deemed to be carrying freight for hire within the meaning of this section. As used herein, the phrase "engaged in fishing as a regular business" includes cannery tender or fishing tender vessels of not more than five hundred gross tons used in the salmon or crab fisheries of the States of Oregon, Washington, and Alaska which are engaged exclusively in (1) the carriage of cargo to or from vessels in the fishery or a facility used or to be used in the processing or assembling of fishery products, or (2) the transportation of cannery or fishing personnel to or from operating locations, and vessels of not more than five thousand gross tons used in the processing or assembling of fishery products in the fisheries of the States of Oregon, Washington, and Alaska. The exemptions in the preceding sentence for cannery tender, fishing tender vessels and vessels used in processing or assembling of fishery products shall continue in force until July 11, 1978. (As amended July 9, 1973, Pub. L. 93–65, § 6(b), 87 Stat. 151; Oct. 1, 1974, Pub. L. 93–430, § 6(4), 88 Stat. 1183.)

REFERENCES IN TEXT

This title, and title 52 of the Revised Statutes, referred to in text, means sections 4399 to 4500 of the Revised Statutes, which are classified to this section and sections 170, 214, 215, 222, 224, 224a, 226, 228, 229, 230 to 234, 239, 240, 361, 362, 364, 372, 375, 391, 391a, 392, 393, 399, 400, 402, 403, 405 to 414, 416, 435, 436, 451 to 453, 460, 461, 462, 467, 470, 471, 473, 477 to 482, 489, and 491 to 498 of this title.

AMENDMENTS

1974—Pub. L. 93–430 added reference to vessels of not more than five thousand gross tons used in the processing or assembling of fishery products in the fisheries of the States of Oregon, Washington, and Alaska, in the definition of "engaged in fishing as a regular business", and in provisions relating to continuation of exemption until July 11, 1978, added reference to vessels used in processing or assembling of fishery products.

1973—Pub. L. 93–65 extended termination date for cannery tender and fishery tender vessel exemption from

a date five years from July 11, 1968, to a date five years from July 11, 1973.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 365, 390 to 390g, 391, 399 of this title.

§ 405. Tugboats, freight boats, and towing vessels; licensing of personnel.

(a) The hull and boiler of every tugboat, towing boat, and freight boat shall be inspected, under the provisions of title 52 of the Revised Statutes; and the Coast Guard shall see that the boilers, machinery, and appurtenances of such vessel are not dangerous in form or workmanship, and that the safety valves, gauge cocks, low-water alarm indicators, steam gauges, and fusible plugs are all attached in conformity to law; and the officers navigating such vessels shall be licensed in conformity with the provisions of sections 214, 224, 226, 229, and 230 of this title and shall be subject to the same provisions of law as officers navigating passenger steamers.

(b) (1) As used in this subsection—

(A) the term "Secretary," means the Secretary of the department in which the Coast Guard is operating;

(B) the term "towing" means pulling, pushing, or hauling alongside or any combination thereof;

(C) the term "towing vessel" means a commercial vessel engaged in or intended to engage in the service of towing which is twenty-six feet or more in length, measured from end to end over the deck, excluding sheer;

(D) the term "uninspected" means not required by law to have a valid certificate of inspection issued by the Secretary.

(2) An uninspected towing vessel in order to assure safe navigation shall, while underway, be under the actual direction and control of a person licensed by the Secretary to operate in the particular geographic area and by type of vessel under regulations prescribed by him. A person so licensed may not work a vessel while underway or perform other duties in excess of a total of twelve hours in any consecutive twenty-four-hour period except in case of emergency.

(3) Paragraph 2 of this subsection shall not apply to towing vessels of less than two hundred gross tons engaged in a service or preparing or intending to immediately engage in a service to the offshore oil and mineral exploitation industry, including construction for such industry, where the vessels involved would have as their ultimate destination or last point of departure offshore oil and mineral exploitation sites or equipment. (As amended July 7, 1972, Pub. L. 92–339, § 1, 86 Stat. 423.)

REFERENCES IN TEXT

Title 52 of the Revised Statutes of the United States, referred to in subsec. (a), means sections 4399 to 4500 of the Revised Statutes, which are classified to this section and sections 170, 214, 215, 222, 224, 224a, 226, 228, 229, 230 to 234, 239, 240, 361, 362, 364, 372, 375, 391, 391a, 392, 393, 399, 400, 402 to 404, 406 to 414, 416, 435, 436, 451 to 453, 460, 461, 462, 467, 470, 471, 473, 477 to 482, 489, and 491 to 498 of this title.

AMENDMENTS

1972—Pub. L. 92–339 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1972 AMENDMENT

Section 3 of Pub. L. 92–339 provided that: "The amendments made by the first section of this Act [adding subsec. (b) to this section] shall become effective on January 1, 1972, or on the first day of the sixth month which begins after the month in which regulations are first issued under section 4427(b)(2) of the Revised Statutes (as added by the first section of this Act) [subsec. (b)(2) of this section], which ever date is later."

REPORT ON THE NEED FOR ENGINEERS ON UNINSPECTED TOWING VESSELS

Section 2 of Pub. L. 92–339 provided that: "The Secretary of Transportation shall conduct a study concerning the need for engineers on uninspected towing vessels and shall submit to the Congress a report on this study, together with any legislative recommendations not later than ten months after the enactment of this legislation [July 7, 1972]."

ISSUANCE OF REGULATIONS COVERING LICENSES FOR OPERATION OF UNINSPECTED TOWING VESSELS

Regulations covering licenses for the operation of uninspected towing vessels were issued on Feb. 26, 1973, by the Commandant of the Coast Guard. The regulations became effective on Sept. 1, 1973, to coincide with the effective date of subsec. (b) of this section which sets out the license requirement and which, under the terms of section 3 of Pub. L 92–339, set out in the Effective Date of 1972 Amendment note above, also became effective Sept. 1, 1973. See 38 F.R. 5746.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 391 of this title.

§ 411. Boilers and pressure vessels; safety standards.

The Commandant of the Coast Guard is empowered to prescribe formulas, rules, and regulations for the design, material, construction, and operation of boilers, unfired pressure vessels, piping, valves, fittings, and other appurtenances for use on vessels subject to the provisions of this Act. (As amended Aug. 10, 1974, Pub. L. 93–370, 88 Stat. 423.)

REFERENCES IN TEXT

For explanation of "this Act", referred to in text, see note under this section in the 1970 Edition.

AMENDMENTS

1974—Pub. L. 93–370 substituted "formula, rules, and regulations for the design, material, construction, and operation of boilers, unfired pressure vessels, piping, valves, fittings, and other appurtenances" for "formulas, rules, and regulations for the design, material, and construction of boilers, unfired pressure vessels and appurtenances thereof, and steam piping" and deleted second sentence provisions for determination of maximum working pressure by formulas prescribed by the Commandant of the Coast Guard and prohibiting design or operation of any boiler, pressure vessel, or appurtenance thereof where factor of safety is less than four and proviso for determination by formulas prescribed by the Commandant of minimum thickness and maximum allowable working pressure of valves, fittings, and other appurtenances.

§ 416. Regulations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 136q.

Chapter 16.—REGULATION OF MOTORBOATS

§ 526b. Lights.

REFERENCES IN TEXT

Act of October 11, 1951 (65 Stat. 406–420) as amended, referred to in subsec. (f), deemed to be a reference to the International Convention for Preventing Collisions at Sea, 1960, Pub. L. 88–131, Sept. 24, 1963, 77 Stat. 194, classified to section 1051 et seq. of Title 33, see section 3 of Pub. L. 88–131, set out as a note under section 1051 of Title 33, Navigation and Navigable Waters.

§ 526f. Repealed. Pub. L. 92–75, § 41(a)(1), Aug. 10, 1971, 85 Stat. 228.

Section, act Apr. 25, 1940, ch. 155, § 7, 54 Stat. 165; 1946 Reorg. Plan No. 3, §§ 101–104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; May 10, 1956, ch. 258, § 6(c), 70 Stat. 154, required licensed operators for motorboats and small craft of 15 tons or less, propelled by machinery other than steam, carrying passengers for hire and provided for the granting of an operator's license by the Secretary and is now covered in part by section 1461(e) of this title.

SAVING PROVISIONS

Any criminal or civil penalty proceeding under the Motorboat Act of 1940, as amended, section 526 et seq. of this title, or the Federal Boating Act of 1958, as amended, former section 527 et seq. of this title, for a violation which occurred before Aug. 10, 1971, to be initiated and continue to conclusion as though the former Acts had not been amended or repealed by Pub. L. 92–75, Aug. 10, 1971, 85 Stat. 213, see section 41(f) of Pub. L. 92–75, set out as a note under section 1483 of this title.

§ 526k. Carrying copies of pilot rules.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 526u of this title.

§§ 526*l*, 526m. Repealed. Pub. L. 92–75, § 41(a)(1), (2), Aug. 10, 1971, 85 Stat. 228.

Section 526*l*, act Apr. 25, 1940, ch. 155, § 13, 54 Stat. 166; Sept. 2, 1958, Pub. L. 85–911, § 6(a), 72 Stat. 1756, prohibited reckless or negligent operation of vessels, provided for accident assistance and for the filing of accident reports and is now covered in part by sections 1465(a) and 1486(d) of this title.

Section 526m, act Apr. 25, 1940, ch. 155, § 14, 54 Stat. 166, provided that any person operating a vessel in a reckless or negligent manner be deemed guilty of a misdemeanor and on conviction be punished by a fine not exceeding $2,000 and/or imprisonment not exceeding 1 year at the court's discretion. For criminal and civil penalties applicable to the Federal Boat Safety Act of 1971, section 1451 et seq. of this title, see sections 1483 and 1484 of this title.

SAVING PROVISIONS

Any criminal or civil penalty proceeding under the Motorboat Act of 1940, as amended, section 526 et seq. of this title, or the Federal Boating Act of 1958, as amended, former section 527 et seq. of this title, for a violation which occurred before Aug. 10, 1971, to be initiated and continue to conclusion as though the former Acts had not been amended or repealed by Pub. L. 92–75, Aug. 10, 1971, 85 Stat. 213, see section 41(f) of Pub. L. 92–75, set out as a note under section 1483 of this title.

§§ 526q, 526r.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 526u of this title.

§ 526t. Repealed. Pub. L. 85–911, § 12, Sept. 2, 1958, 72 Stat. 1758, eff. Apr. 1, 1960.

REPEAL

Section 12 of Pub. L. 85–911, Sept. 2, 1958, 72 Stat. 1758, was repealed by Pub. L. 92–75, § 41(a)(2), Aug. 10, 1971, 85 Stat. 228.

§ 526u. Application of subchapter; "State" defined.

(a) This subchapter applies to every motorboat or vessel on the navigable waters of the United States, Guam, the Virgin Islands, the Commonwealth of Puerto Rico, and the District of Columbia, and every motorboat or vessel owned in a State and using the high seas, except that the provisions of this subchapter other than sections 526k, 526q, and 526r of this title do not apply to boats as defined in and subject to the Federal Boat Safety Act of 1971.

(b) As used in this subchapter—

The term "State" means a State of the United States, Guam, the Virgin Islands, the Commonwealth of Puerto Rico, and the District of Columbia.

(Apr. 25, 1940, ch. 155, § 22, as added Sept. 2, 1958, Pub. L. 85–911, § 6(c), 72 Stat. 1756, and amended Aug. 10, 1971, Pub. L. 92–75, § 41(b), 85 Stat. 228.)

REFERENCES IN TEXT

The Federal Boat Safety Act of 1971, referred to in text, is Pub. L. 92–75, Aug. 10, 1971, 85 Stat. 213, which is classified principally to section 1451 et seq. of this title.

CODIFICATION

Pub. L. 86–396, Mar. 28, 1960, 74 Stat. 10, formerly set out in the credit of this section, was repealed by Pub. L. 92–75, § 41(a)(3), Aug. 10, 1971, 85 Stat. 228.

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–75 substituted "Guam, the Virgin Islands, the Commonwealth of Puerto Rico," for "its Territories" and added provisions excepting this subchapter, other than sections 526k, 526q, and 526r, from applicability to boats as defined in and subject to the Federal Boat Safety Act of 1971.

Subsec. (b). Pub. L. 92–75 substituted "Guam, the Virgin Islands, the Commonwealth of Puerto Rico" for "a Territory of the United States".

§§ 527 to 527h. Repealed. Pub. L. 92–75, § 41(a)(2), (4), Aug. 10, 1971, 85 Stat. 228.

Section 527, Pub. L. 85–911, § 2, Sept. 2, 1958, 72 Stat. 1754; Pub. L. 87–171, § 1(1), Aug. 30, 1961, 75 Stat. 408, defined the terms "undocumented vessel", "vessel", "Secretary", "owner" and "State" and is now covered by section 1452 of this title.

Section 527a, Pub. L. 85–911, § 3, Sept. 2, 1958, 72 Stat. 1754; Pub. L. 87–171, § 1(2), Aug. 30, 1961, 75 Stat. 408, provided for the numbering of vessels to be secured in the State of principal use or from the Federal numbering system if State of principal use has no approved numbering system, required the Secretary to establish an overall numbering system and set standards for the approval by the Secretary of State numbering systems, provided for the duration of initial or renewal certificates under Federal system, required display of number, set size of the certificate, required its availability for inspection, set out the documentary nature of the certificate and provided for withdrawal of approval of State system upon notice and is now covered by sections 1466 to 1473 of this title.

Section 527b, Pub. L. 85–911, § 4, Sept. 2, 1958, 72 Stat. 1756, required the owner of any vessel numbered under the Federal system to notify the Secretary of transfer of interest, destruction or abandonment of the vessel or change of owner's address and is now covered by section 1469(b) of this title.

Section 527c, Pub. L. 85–911, § 5, Sept. 2, 1958, 72 Stat. 1756, permitted the Secretary to prescribe reasonable fees for the numbering of a vessel or renewal thereof and is now covered in part by section 1472 of this title.

Section 527d, Pub. L. 85–911, § 7, Sept. 2, 1958, 72 Stat. 1757, required the Secretary to make rules and regulations necessary to carry out the provisions of this subchapter and permitted the Secretary to exempt vessels from the Federal numbering system and is now covered in part by sections 1468(a) and 1472 of this title.

Section 527e, Pub. L. 85–911, § 8, Sept. 2, 1958, 72 Stat. 1757; Pub. L. 87–171, § 1(2), Aug. 30, 1961, 75 Stat. 408, established penalties for violations of numbering provisions of this subchapter, provided for assessment and collection of penalties by Secretary, and in his discretion the remission or mitigation of penalties or the discontinuance of prosecution for penalties under this section and permitted the inspection of a vessel covered by this subchapter or subchapter II by the Coast Guard and is now covered in part by sections 1462 and 1484 of this title.

Section 527f, Pub. L. 85–911, § 9, Sept. 2, 1958, 72 Stat. 1757, set out a congressional declaration of policy with regard to this subchapter. For congressional declaration

of policy with regard to the Federal Boat Safety Act of 1971, section 1451 et seq. of this title, see section 1451 of this title.

Section 527g, Pub. L. 85–911, § 10, Sept. 2, 1958, 72 Stat. 1757, authorized Secretary to compile, analyze and publish accident reports, findings concerning the causes of such accidents and recommendations for their prevention and provided these reports be available for public inspection and is now covered in part by section 1486(e) of this title. See also sections 1474, 1475, 1481, 1482 and 1486 of this title.

Section 527h, Pub. L. 85–911, § 13, Sept. 2, 1958, 72 Stat. 1758; Pub. L. 87–171, § 1(2), Aug. 30, 1961, 75 Stat. 408, provided enforcement provisions for the States and Federal government, declared State jurisdiction to be unimpaired and prohibited the Secretary from approving any State numbering system not complying with standards set forth in former section 527a and is now covered in part by sections 1467, 1472 and 1489 of this title.

SAVINGS PROVISIONS

Any criminal or civil penalty proceeding under the Motorboat Act of 1940, as amended, section 526 et seq. of this title, or the Federal Boating Act of 1958, as amended, former section 527 et seq. of this title, for a violation which occurred before Aug. 10, 1971, to be initiated and continue to conclusion as though the former Acts had not been amended or repealed by Pub. L. 92–75, Aug. 10, 1971, 85 Stat. 213, see section 41(f) of Pub. L. 92–75, set out as a note under section 1483 of this title.

Chapter 18.—MERCHANT SEAMEN

§ 544. Vessels in coastwise trade.

None of the provisions of sections 201 to 203, 542a, 543, 545, 546, 561, 562, 564 to 571, 574, 577, 578, 591 to 596, 600, 621 to 628, 641 to 643, 644, 645, 651, 652, 662 to 669, 701 to 703, 705 to 707, 709, 711 and 713 of this title shall apply to sail or steam vessels engaged in the coastwise trade, except the coastwise trade between the Atlantic and Pacific coasts, or in the lake-going trade touching at foreign ports or otherwise, or in the trade between the United States and the British North American possessions, or in any case where the seamen are by custom or agreement entitled to participate in the profits or result of a cruise, or voyage. (June 9, 1874, ch. 260, 18 Stat. 64; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167.)

CODIFICATION

Section is set out in this supplement to include sections of the Code which are derived from the Shipping Commissioners' Act of June 7, 1872, ch. 322, 17 Stat. 262.

Section 541 of this title was excluded from enumeration in the text in view of repeal of such section by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 635, 639. Such section had been omitted in the Code on authority of 1946 Reorg. Plan No. 3, §§ 101–104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097. See note under section 1 of this title.

Sections 542 and 547 to 549 of this title were excluded from enumeration in the text in view of omission of such sections in the Code on authority of 1946 Reorg. Plan No. 3, §§ 101–104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097. See note under section 1 of this title.

Sections 704 and 708 of this title were excluded from enumeration in the text in view of repeal of such sections by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, effective Sept. 1, 1948, now covered by sections 2196 and 2279, respectively, of Title 18, Crimes and Criminal Procedure.

Act Mar. 3, 1911, imposed upon the district courts the powers and duties formerly conferred upon circuit courts. This affected the words "circuit courts" appearing in act June 9, 1874, which words were from the title of another act referred to in act June 9, 1874, and translated in this section as "sections 201—203 * * * of this title".

Chapter 20.—SUITS IN ADMIRALTY BY OR AGAINST VESSELS OR CARGOES OF UNITED STATES

§§ 742, 744.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 749 of this title.

§ 749. Arbitration, compromise, or settlement of claims.

The Secretary of any department of the Government of the United States, or the board of trustees of corporations mentioned in section 741 of this title, are, and each is, authorized to arbitrate, compromise, or settle any claim in which suit will lie under the provisions of sections 742, 744, and 750 of this title. (As amended Aug. 29, 1972, Pub. L. 92–417, § 3, 86 Stat. 656.)

AMENDMENTS

1972—Pub. L. 92–417 struck out "having control of the possession or operation of any merchant vessel" preceding "are, and each is".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 748 of this title.

Chapter 23.—SHIPPING ACT

Sec.

804. Federal Maritime Commission; rules and regulations for filing of rates and charges for barging and affreighting of containers or containerized cargo by barges within the United States [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1183 of this title; title 28 section 2342.

§ 801. Definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 845b of this title.

§ 802. Corporation, partnership, or association as citizen.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1244, 1271, 1411 of this title; title 15 section 144; title 16 section 742c; title 50 App., section 1736.

§ 804. Federal Maritime Commission; rules and regulations for filing of rates and charges for barging and affreighting of containers or containerized cargo by barges within the United States.

Notwithstanding part III of the Interstate Commerce Act, as amended, or any other provision of law, rates and charges for the barging and affreighting of containers or containerized cargo by barge between points in the United States, shall be filed solely with the Federal Maritime Commission in accordance with rules and regulations promulgated by the Commission where (a) the cargo is moving between a point in a foreign country or a non-contiguous State, territory, or possession and a point in the United States, (b) the transportation by barge between points in the United States is furnished by a terminal operator as a service substitute in lieu of a direct vessel call by the common carrier by water transporting the containers or containerized cargo under a through bill of lading, (c) such terminal operator is a Pacific Slope State, municipality, or other public body or agency subject to the jurisdiction of the Federal Maritime Commission, and the only one

furnishing the particular circumscribed barge service in question as of January 2, 1975, and (d) such terminal operator is in compliance with the rules and regulations of the Federal Maritime Commission for the operation of such barge service. The terminal operator providing such services shall be subject to the provisions of this chapter. (Sept. 7, 1916, ch. 451, § 3, as added Jan. 2, 1975, Pub. L. 93–605, § 2(a), 88 Stat. 1966.)

REFERENCES IN TEXT

Part III of the Interstate Commerce Act, referred to in text, is classified to section 901 et seq. of Title 49, Transportation.

PRIOR PROVISIONS

A prior section 804, acts Sept. 7, 1916, ch. 451, § 3, 39 Stat. 729; June 5, 1920, ch. 250, § 3, 41 Stat. 989, which established the United States Shipping Board and enumerated its duties was repealed by act June 29, 1936, ch. 858, title IX, § 903(a), 49 Stat. 2016.

RULES AND REGULATIONS

Section 2(b) of Pub. L. 93–605 provided that: "Within one hundred and twenty days after enactment of this Act [Jan. 2, 1975], the Federal Maritime Commission shall promulgate rules and regulations for the barge operations described in the amendment made by the first section of this Act [probably refers to this section]. Such rules shall provide that the rates charged shall be based upon factors normally considered by a regular commercial operator in the same service."

§ 808. Registration, enrollment, and licensing of vessels purchased, chartered, or leased; regulations; coastwise trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 864, 865a, 883, 883–1, 1160 of this title; title 50 section 198.

§ 812. Rebates and discriminations by carriers by water prohibited; use of "fighting ship."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 831 of this title.

§ 814. Contracts between carriers filed with Commission; definition of "agreement"; approval, disapproval, etc., by Commission; unlawful execution of agreements; conference agreements and antitrust laws exemptions; civil actions for penalties; terminal leases exemption.

* * * * *

Whoever violates any provision of this section or of section 813a of this title shall be subject to a civil penalty of not more than $1,000 for each day such violation continues: *Provided, however,* That the penalty provisions of this section shall not apply to leases, licenses, assignments, or other agreements of similar character for the use of terminal property or facilities which were entered into before the date of enactment of this Act, and, if continued in effect beyond said date, submitted to the Federal Maritime Commission for approval prior to or within ninety days after the enactment of this Act, unless such leases, licenses, assignments, or other agreements for the use of terminal facilities are disapproved, modified, or canceled by the Commission and are continued in operation without regard to the Commission's action thereon. The Commission shall promptly approve, disapprove, cancel, or modify each such agreement in accordance with the provisions of this section. (As amended Aug. 29, 1972, Pub. L. 92–416, § 1(a), 86 Stat. 653.)

AMENDMENTS

1972—Pub. L. 92–416 substituted a civil penalty of not more than $1,000 for each day of violation, for a penalty of not more than $1,000 for each day of violation, and struck out provisions relating to the recovery by the United States in a civil action, in the last paragraph relating to penalties.

COMPROMISE OR RECOVERY OF CIVIL PENALTY

Section 3 of Pub. L. 92–416 provided that: "Any civil penalty provided herein [amending this section and sections 815, 817, 831, and 844 of this title] may be compromised by the Federal Maritime Commission, or may be recovered by the United States in a civil action."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 819, 831 of this title; title 49 section 920.

§ 815. Discriminatory acts prohibited.

* * * * *

Whoever violates any provision of this section other than paragraphs First and Third hereof shall be subject to a civil penalty of not more than $5,000 for each such violation.

Whoever violates paragraphs First and Third hereof shall be guilty of a misdemeanor punishable by a fine of not more than $5,000 for each offense. (As amended Aug. 29, 1972, Pub. L. 92–416, § 1(b), 86 Stat. 653.)

AMENDMENTS

1972—Pub. L. 92–416 substituted a civil penalty of not more than $5,000 for each violation of provisions of this section other than paragraphs (1) and (3), and a criminal penalty of not more than $5,000 for violation of paragraphs (1) and (3), for provisions providing for a penalty of $5,000 for violation of this section.

COMPROMISE OR RECOVERY OF CIVIL PENALTY

Civil penalty may be compromised by the Federal Maritime Commission or recovered by the United States in a civil action, see section 3 of Pub. L. 92–416, set out as a note under section 814 of this title.

§ 817. Carriers in interstate commerce to establish; observe, and enforce reasonable rates and regulations; carriers in foreign commerce to file tariffs of rates and charges.

* * * * *

(b)(1) * * *

* * * * *

(6) Whoever violates any provision of this section shall be subject to a civil penalty of not more than $1,000 for each day such violation continues. (As amended Aug. 29, 1972, Pub. L. 92–416, § 1(c), 86 Stat. 653.)

AMENDMENTS

1972—Subsec. (b)(6). Pub. L. 92–416 substituted civil penalty of not more than $1,000 for each day of violation, for a penalty of not more than $1,000 for each day of violation recoverable by the United States in a civil action.

COMPROMISE OR RECOVERY OF CIVIL PENALTY

Civil penalty may be compromised by the Federal Maritime Commission or recovered by the United States in a civil action, see section 3 of Pub. L. 92–416, set out as a note under section 814 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 831 of this title.

§§ 818 to 820.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 831 of this title.

§ 822. Orders of Commission made only after full hearing.

Orders of the Commission relating to any violation of this chapter or to any violation of any rule or regulation issued pursuant to this chapter shall be made only after full hearing, and upon a sworn complaint or in proceedings instituted of its own motion.

* * * * *

(As amended Aug. 29, 1972, Pub. L. 92–416, § 1(d), 86 Stat. 653.)

AMENDMENTS

1972—Pub. L. 92–416 made the hearing provisions applicable to orders of the Commission relating to violations of rules and regulations issued under this chapter.

§ 828. Enforcement of orders of Commission.

ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Federal Maritime Commission under this chapter as are subject to judicial review under section 830 of this title, see section 2342(3) of Title 28, Judiciary and Judicial Procedure.

§ 830. Venue and procedure in suits to enforce, suspend, or set aside orders.

ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Federal Maritime Commission or Maritime Administration under Shipping Act, 1916, and Intercoastal Shipping Act, 1933 (chapters 23 and 23A of this title), as are subject to judicial review under this section, see section 2342(3) of Title 28, Judiciary and Judicial Procedure.

§ 831. Civil and criminal penalties.

(a) Whoever violates any provision of sections 812 through 817, 818 through 820, and section 841b of this title, except where a different penalty is provided, shall be subject to a civil penalty not to exceed $5,000 for each such violation.

(b) Whoever violates any provision of any other section of this chapter, except where a different penalty is provided, shall be guilty of a misdemeanor, punishable by a fine not to exceed $5,000.

(c) Whoever violates any order, rule, or regulation of the Federal Maritime Commission made or issued in the exercise of its powers, duties, or functions, shall be subject to a civil penalty of not more than $1,000 for each day such violation continues. (As amended Aug. 29, 1972, Pub. L. 92–416, § 1(e), 86 Stat. 653.)

AMENDMENTS

1972—Pub. L. 92–416 substituted subsecs. (a)–(c) for provisions making any violation of this chapter a misdemeanor punishable by a fine not exceeding $5,000.

COMPROMISE OR RECOVERY OF CIVIL PENALTY

Civil penalty may be compromised by the Federal Maritime Commission or recovered by the United States in a civil action, see section 3 of Pub. L. 92–416, set out as a note under section 814 of this title.

§ 835. Restrictions on transfer of shipping facilities during war or national emergency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 865a, 1160 of this title.

§ 839. Approvals by Secretary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 865a of this title.

§ 841b. Licensing of ocean freight forwarders.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 831 of this title.

Chapter 23A.—INTERCOASTAL SHIPPING

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 49 section 903.

§ 844. Schedule of rates; filing; posting; availability; incorporation by reference in short form documents; penalties for violations.

* * * * *

Whoever violates any provision of this section shall be subject to a civil penalty of not more than $1,000 for each day such violation continues. (As amended Aug. 29, 1972, Pub. L. 92–416, § 2, 86 Stat. 653.)

AMENDMENTS

1972—Pub. L. 92–416 substituted a civil penalty of not more than $1,000 for each day of violation of this section, for a penalty of not more than $1,000 for each day of violation, recoverable by the United States in civil action, in the last paragraph of this section.

COMPROMISE OR RECOVERY OF CIVIL PENALTY

Civil penalty may be compromised by the Federal Maritime Commission or recovered by the United States in a civil action, see section 3 of Pub. L. 92–416, set out as a note under section 814 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 920.

§ 845. Same; changes in rates; hearings on new schedules; suspension of rates pending hearing; burden of proof.

ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Maritime Administration under this chapter as are subject to judicial review under section 830 of this title, see section 2342(3) of Title 28, Judiciary and Judicial Procedure.

§ 845a. Same; reasonable maximum and minimum rates, etc.

ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Maritime Administration under this chapter as are subject to judicial review under section 830 of this title, see section 2342(3) of Title 28, Judiciary and Judicial Procedure.

§ 845b. Application to common carrier by water in interstate commerce and carriage, etc. of property for United States, States, municipalities, or for charitable purposes.

The provisions of this chapter are extended and shall apply to every common carrier by water in interstate commerce, as defined in section 801 of this title, and shall apply to the carriage, storage or handling of property for the United States, State or municipal governments, or for charitable purposes. (As amended Oct. 26, 1974, Pub. L. 93–487, § 1, 88 Stat. 1463.)

AMENDMENTS

1974—Pub. L. 93–487 added provision relating to the applicability to the carriage, storage or handling of property for the United States, State or municipal governments, or for charitable purposes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 920.

§ 846. Repealed. Pub. L. 93–487, § 2, Oct. 26, 1974, 88 Stat. 1463.

Section, act Mar. 3, 1933, ch. 199, § 6, formerly § 4, 47 Stat. 1427, renumbered June 23, 1938, ch. 600, § 43(b), 52 Stat. 964, provided that nothing in this chapter shall prevent the carriage, storage, or handling of property free or at reduced rates, for the United States, State or municipal Government, or for charitable purposes. See section 845b of this title.

Chapter 24.—MERCHANT MARINE ACT, 1920

Sec.
865a. Sale of inactive passenger vessels to foreigners; conditions; requisition in emergency; surety bond [New].

§ 865a. Sale of inactive passenger vessels to foreigners; conditions; requisition in emergency; surety bond.

Notwithstanding any other provision of law or of prior contract with the United States, any vessel heretofore operated as a passenger vessel, as defined in section 1183(a) of this title, under an operating-differential subsidy contract with the United States and now in inactive or layup status, except the steamship Independence and the steamship United States, may be sold and transferred to foreign ownership, registry, and flag, with the prior approval of the Secretary of Commerce. Such approval shall require (1) approval of the purchaser; (2) payment of existing debt and private obligations related to the vessel; (3) approval of the price, including terms of payment, for the sale of the vessel; (4) the seller to enter into an agreement with the Secretary whereby an amount equal to the net proceeds received from such sale in excess of existing obligations and expenses incident to the sale shall within a reasonable period not to exceed twelve months of receipt be committed and thereafter be used as equity capital for the construction of new vessels which the Secretary determines are built to effectuate the purposes and policy of the Merchant Marine Act, 1936, as amended; and (5) the purchaser to enter into an agreement with the Secretary, binding upon such purchaser and any later owner of the vessel and running with title to the vessel, that (a) the vessel will not carry passengers or cargo in competition, as determined by the Secretary, with any United States-flag passenger vessel for a period of two years from the date the transferred vessel goes into operation; (b) the vessel will be made available to the United States in time of emergency and just compensation for title or use, as the case may be, shall be paid in accordance with section 1242 of this title; (c) the purchaser will comply with such further conditions as the Secretary may impose as authorized by sections 808, 835 and 839 of this title; and (d) the purchaser will furnish a surety bond in an amount and with a surety satisfactory to the Secretary to secure performance of the foregoing agreements.

In addition to any other provision such agreements may contain for enforcement of (4) and (5) above, the agreements therein required may be specifically enforced by decree for specific performance or injunction in any district court of the United States. In the agreement with the Secretary the purchaser shall irrevocably appoint a corporate agent within the United States for service of process upon such purchaser in any action to enforce the agreement. (Pub. L. 92–296, § 1, May 16, 1972, 86 Stat. 140.)

REFERENCES IN TEXT

Merchant Marine Act, 1936, as amended, referred to in text, is classified to chapter 27 (section 1101 et seq.) of this title.

CODIFICATION

Section was not enacted as part of Merchant Marine Act, 1920, which comprises this chapter.

§ 882. Number of passengers cargo vessels may carry.

Cargo vessels documented under the laws of the United States may carry not to exceed sixteen persons in addition to the crew between any ports or places in the United States or its Districts, Territories, or possessions, or between any such port or place and any foreign port, or from any foreign port to another foreign port, and such vessels shall not be held to be "passenger vessels" or "vessels carrying passengers" within the meaning of the inspection laws and the rules and regulations thereunder: *Provided*, That nothing herein shall be taken to exempt such vessels from the laws, rules, and regulations respecting life-saving equipment: *Provided further*, That when any such vessel carries persons other than the crew as herein provided for, the owner, agent, or master of the vessel shall first notify such persons of the presence on board of any dangerous articles, as defined by law, or of any other condition or circumstance which would constitute a risk of safety for passenger or crew: *And provided further*, That in any case in which the Secretary of the Department in which the Coast Guard is operating, finds that an emergency situation so requires, and subject to such regulations as he may prescribe, any vessel documented under the laws of the United States and not engaged in an international voyage may carry in excess of sixteen persons in addition to the crew.

* * * * *

(As amended Aug. 9, 1975, Pub. L. 94–85, 89 Stat. 426.)

AMENDMENTS

1975—Pub. L. 94–85 added proviso relating to carriage of in excess of sixteen persons in addition to crew in emergency situations.

§ 883. Transportation of merchandise between points in United States in other than domestic-built or rebuilt and documented vessels.

No merchandise shall be transported by water, or by land and water, on penalty of forfeiture thereof, between points in the United States, including Districts, Territories, and possessions thereof embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States, or vessels to which the privilege of engaging in the coastwise trade is extended by section 13 or 808 of this title: *Provided*, That no vessel having at any time acquired the lawful right to engage in the coastwise trade, either by virtue of having been built in, or documented under the laws of the United States, and later sold foreign in whole or in part, or placed under foreign registry, shall hereafter acquire the right to engage in the coastwise trade: *Provided further*, That no vessel of more than five hundred gross tons which has acquired the lawful right to engage in the coastwise trade, by virtue of having been built in or documented under the laws of the United States, and which has later been rebuilt shall have the right thereafter to engage in the coastwise trade, unless the entire rebuilding, including the construction of any major components of the hull or superstructure of the vessel, is effected within the United States, its territories (not including trust

territories), or its possessions: *Provided further,* That this section shall not apply to merchandise transported between points within the continental United States, including Alaska, over through routes heretofore or hereafter recognized by the Interstate Commerce Commission for which routes rate tariffs have been or shall hereafter be filed with said Commission when such routes are in part over Canadian rail lines and their own or other connecting water facilities: *Provided further,* That this section shall not become effective upon the Yukon River until the Alaska Railroad shall be completed and the Secretary of Commerce shall find that proper facilities will be furnished for transportation by persons citizens of the United States for properly handling the traffic: *Provided further,* That this section shall not apply to the transportation of merchandise loaded on railroad cars or to motor vehicles with or without trailers, and with their passengers or contents when accompanied by the operator thereof, when such railroad cars or motor vehicles are transported in any railroad car ferry operated between fixed termini on the Great Lakes as a part of a rail route, if such car ferry is owned by a common carrier by water and operated as part of a rail route with the approval of the Interstate Commerce Commission, and if the stock of such common carrier by water, or its predecessor, was owned or controlled by a common carrier by rail prior to June 5, 1920, and if the stock of the common carrier owning such car ferry is, with the approval of the Interstate Commerce Commission, now owned or controlled by any common carrier by rail and if such car ferry is built in and documented under the laws of the United States: *Provided further,* That upon such terms and conditions as the Secretary of the Treasury by regulation may prescribe, and, if the transporting vessel is of foreign registry, upon a finding by the Secretary of the Treasury, pursuant to information obtained and furnished by the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States, this section shall not apply to the transportation by vessels of the United States not qualified to engage in the coastwise trade, or by vessels of foreign registry, of (a) empty cargo vans, empty lift vans, and empty shipping tanks, (b) equipment for use with cargo vans, lift vans, or shipping tanks, (c) empty barges specifically designed for carriage aboard a vessel and equipment, excluding propulsion equipment, for use with such barges, and (d) any empty instrument for international traffic exempted from application of the customs laws by the Secretary of the Treasury pursuant to the provisions of section 1322(a) of Title 19, if the articles described in clauses (a) through (d) are owned or leased by the owner or operator of the transporting vessel and are transported for his use in handling his cargo in foreign trade; and (e) stevedoring equipment and material, if such equipment and material is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for use in the handling of cargo in foreign trade: *Provided further,* That upon such terms and conditions as the Secretary of the Treasury by regulation may prescribe, and, if the transporting vessel is of foreign registry, upon his finding, pursuant to information furnished by the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States, the Secretary of the Treasury may suspend the application of this section to the transportation of merchandise between points in the United States (excluding transportation between the continental United States and noncontiguous states, districts, territories, and possessions embraced within the coastwise laws) which, while moving in the foreign trade of the United States, is transferred from a non-self-propelled barge certified by the owner or operator to be specifically designed for carriage aboard a vessel and regularly carried aboard a vessel in foreign trade to another such barge owned or leased by the same owner or operator, without regard to whether any such barge is under foreign registry or qualified to engage in the coastwise trade. (As amended Nov. 23, 1971, Pub. L. 92–163, § 1, 85 Stat. 486.)

AMENDMENTS

1971—Pub. L. 92–163 added "and equipment, excluding propulsion equipment, for use with such barges" following "(c) empty barges specifically designed for carriage aboard a vessel" and added reciprocity proviso reciprocally permitting foreign-flag specialty barges, specifically designed and regularly carried aboard a barge carrying ship in foreign trade to carry export or import cargo between United States points which has been transferred from one such barge to another.

REPORT TO CONGRESS REGARDING EFFECT OF RECIPROCITY PROVISIONS

Section 2 of Pub. L. 92–163 provided that: "For a period of five years following the enactment of this Act [Nov. 23, 1971], the Secretary of the Treasury shall at the beginning of each regular session make a report to the Congress regarding activities under this Act, including but not limited to the extent to which foreign governments are extending reciprocal privileges to the vessels of the United States."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 316, 883–1 of this title; title 19 section 1554; title 49 section 920.

Chapter 25.—SHIP MORTGAGES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 18, 1271 of this title.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 28: 9–104 of the District of Columbia Code.

MARITIME LIENS FOR NECESSARIES

§ 973. Notice to person furnishing repairs, supplies, and necessaries.

The officers and agents of a vessel specified in section 972 of this title shall be taken to include such officers and agents when appointed by a charterer, by an owner pro hac vice, or by an agreed purchaser in possession of the vessel. (As amended Aug. 10, 1971, Pub. L. 92–79, 85 Stat. 285.)

AMENDMENTS

1971—Pub. L. 92–79 struck out provisions prohibiting the construction of this chapter to confer a lien when the furnisher knew, or by exercise of reasonable diligence could have ascertained that because of the terms of a

charter party, agreement for sale of the vessel, or for any other reason, the person ordering the repairs, supplies, or other necessaries was without authority to bind the vessel.

Chapter 27.—MERCHANT MARINE ACT, 1936

SUBCHAPTER IX.—MISCELLANEOUS PROVISIONS

Sec. 1241–1. Shipment of exports finances by Government in United States vessels.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 865a of this title.

SUBCHAPTER I.—DECLARATION OF POLICY

§ 1101. Fostering development and maintenance of merchant marine.

It is necessary for the national defense and development of its foreign and domestic commerce that the United States shall have a merchant marine (a) sufficient to carry its domestic water-borne commerce and a substantial portion of the water-borne export and import foreign commerce of the United States and to provide shipping service essential for maintaining the flow of such domestic and foreign water-borne commerce at all times, (b) capable of serving as a naval and military auxiliary in time of war or national emergency, (c) owned and operated under the United States flag by citizens of the United States, insofar as may be practicable, (d) composed of the best-equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel, and (e) supplemented by efficient facilities for shipbuilding and ship repair. It is declared to be the policy of the United States to foster the development and encourage the maintenance of such a merchant marine. (June 29, 1936, ch. 858, § 101, 49 Stat. 1985; Oct. 21, 1970, Pub. L. 91–469, § 1, 84 Stat. 1018.)

CODIFICATION

Section is set out in this Supplement to correct a typographical error.

SUBCHAPTER II.—CREATION AND FUNCTIONS OF MARITIME AGENCIES

§ 1114. Transfer of powers; rules and orders.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1151, 1244 of this title.

§ 1126d. Advisory Board of Merchant Marine Academy.

TERMINATION OF ADVISORY BOARDS

Advisory Boards in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER V.—CONSTRUCTION-DIFFERENTIAL SUBSIDY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1161, 1191, 1193, 1204, 1212, 1244, 1274 of this title; title 50 App., section 1742.

§ 1152. Construction of vessels; bids; subsidies.

(a) Approval of bids; contract with bidder; acceptance of negotiated price; shipyard records, availability; contract with applicant or qualified citizen for purchase of vessel.

If the Secretary of the Navy certifies his approval under section 1151(b) of this title, and the Secretary of Commerce approves the application, he may secure bids for the construction of the proposed vessel according to the approved plans and specifications. If the bid of the shipbuilder who is the lowest responsible bidder is determined by the Secretary of Commerce to be fair and reasonable, the Secretary of Commerce may approve such bid, and if such approved bid is accepted by the proposed shipbuilder, the Secretary of Commerce is authorized to enter into a contract with the successful bidder for the construction, outfitting, and equipment of the proposed vessel, and for the payment by the Secretary of Commerce to the shipbuilder, on terms to be agreed upon in the contract, of the contract price of the vessel, out of the construction fund hereinbefore referred to, or out of other available funds. Notwithstanding the provisions of the first sentence of section 1155 of this title with respect to competitive bidding, the Secretary of Commerce is authorized, at any time prior to June 30, 1976, to accept a price for the construction of the ship which has been negotiated between a shipyard and proposed ship purchaser if (i) the negotiated price will result in a construction-differential subsidy that is equal to or less than 45 per centum in fiscal 1971, 43 per centum in fiscal 1972, 41 per centum in fiscal 1973, 39 per centum in fiscal 1974, 37 per centum in fiscal 1975, and 35 per centum in fiscal 1976, (ii) the proposed ship purchaser and the shipyard submit backup cost details and evidence that the negotiated price is fair and reasonable; (iii) the Secretary of Commerce finds that the negotiated price is fair and reasonable; and (iv) the shipyard agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment have access to and the right to examine any pertinent books, documents, papers, and records of the shipyard or any of its subcontractors related to the negotiation or performance of any contract or subcontract negotiated under this subsection and will include in its subcontracts a provision to that effect. Concurrently with entering into such contract with the shipbuilder, the Secretary of Commerce is authorized to enter into a contract for the sale of such vessel upon its completion, to the applicant if he is the proposed ship purchaser and if not to another citizen of the United States, if the Secretary of Commerce determines that such citizen possesses the ability, experience, financial resources, and other qualifications necessary for the operation and maintenance of the vessel at a price corresponding to the estimated cost, as determined by the Secretary of Commerce pursuant to the provisions of this chapter, of building such vessel in a foreign shipyard.

* * * * *

(As amended July 10, 1973, Pub. L. 93–71, 87 Stat. 169.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–71 in third sentence, substituted "June 30, 1976" for "June 30, 1973" and limited vessel construction subsidy to 39 per centum in fiscal 1974, 37 per centum in fiscal 1975, and 35 per centum in fiscal 1976.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1154 of this title.

§ 1155. Eligible shipyards; materials; conditions of contracts; limitation to American shipyards; American materials, waiver; ability of bidders; filing bids and data.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1152, 1155a, 1176 of this title; title 50 App., section 1212.

§ 1156. Operation of subsidy constructed vessel limited to foreign trade; repayments to Secretary for deviations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1177, 1183 of this title.

§ 1159. Vessels to be operated in domestic trade; terms and conditions of construction aid and sale to purchaser.

Any citizen of the United States may make application to the Secretary of Commerce for aid in the construction of a new vessel to be operated in the foreign or domestic trade (excepting vessels engaged solely in the transportation of property on inland rivers and canals exclusively). If such application is approved by the Secretary of Commerce, the vessel may be constructed under the terms and conditions of this subchapter, but no construction-differential subsidy shall be allowed. The Secretary of Commerce shall pay for the cost of national-defense features incorporated in such vessel. In case the vessel is designed to be of not less than three thousand five hundred gross tons and to be capable of sustained speed of not less than fourteen knots, or in the case of a passenger vessel operating solely on the inland rivers and waterways which is designed to be of not less than one thousand gross tons and to be capable of sustained speed of not less than eight knots, or in the case of an oceangoing tug of more than two thousand five hundred horsepower or oceangoing barge of more than two thousand five hundred gross tons, or in the case of a vessel of more than two thousand five hundred horsepower designed to be capable of sustained speed of not less than forty knots, the purchaser shall be required to pay the Secretary of Commerce not less than 12½ per centum of the cost of such vessel, and in the case of any other vessel the purchaser shall be required to pay the Secretary of Commerce not less than 25 per centum of the cost of such vessel (excluding from such cost, in either case, the cost of national defense features); and the balance of such purchase price shall be paid by the purchaser within twenty-five years in not to exceed twenty-five equal annual installments, with interest at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, plus (ii) an allowance adequate in the judgment of the Secretary of Commerce to cover administrative costs, the balance of such purchase price being secured by a preferred mortgage on the vessel sold and otherwise secured as the Secretary of Commerce may determine: *Provided*, That, notwithstanding any other provisions of law, the balance of the purchase price of a passenger vessel constructed under this section which is delivered subsequent to March 8, 1946, and which has the tonnage, speed, passenger accommodations, and other characteristics set forth in section 1153 of this title, may, with the approval of the Secretary of Commerce, be secured as provided in such section, and the obligation of the purchaser of such a vessel shall be satisfied and discharged as provided in such section. (As amended Aug. 10, 1972, Pub. L. 92–374, 86 Stat. 528.)

AMENDMENTS

1972—Pub. L. 92–374 inserted "or in the case of a vessel of more than two thousand five hundred horsepower designed to be capable of sustained speed of not less than forty knots" in the sentence dealing with the percentage of cost payable by the purchaser, following "barge of more than two thousand five hundred gross tons".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1152, 1274 of this title.

§ 1160. Acquisition of obsolete vessels.

* * * * *

(i) Exchange of vessels; valuation; scrapping of traded out vessels.

The Secretary of Commerce is authorized, within two years after enactment of this subsection, to acquire mariner class vessels constructed under subchapter VII of this chapter and Public Law 911, Eighty-first Congress, in exchange for obsolete vessels in the National Defense Reserve Fleet that are scheduled for scrapping. For purposes of this subsection, the traded-in and traded-out vessels shall be valued at the higher of their scrap value in domestic or foreign markets as of the date of the exchange: *Provided*, That in any exchange transactions the value assigned to the traded-in and traded-out vessels will be determined on the same basis. The value of the traded-out vessel shall be as nearly as possible equal to the value of the traded-in vessel plus the fair value of the cost of towing the traded-out vessel to the place of scrapping. To the extent the value of the traded-out vessel exceeds the value of the traded-in vessel plus the fair value of the cost of towing, the owner of the traded-in vessel shall pay the excess to the Secretary of Commerce in cash at the time of the exchange. This excess shall be deposited into the Vessel Operations Revolving Fund and all costs incident to the lay-up of vessels acquired under this chapter may be paid from balances in the Fund. No payments shall be made by the Secretary of Commerce to the owner of any traded-in vessel in connection with any exchange under this subsection. Notwithstanding the provisions of sections 808 and 835 of this title, vessels traded out under this subsection may be scrapped in approved foreign markets. The provision of this subsection (i) as it read prior to

this amendment shall govern all transactions made thereunder prior to this amendment.

* * * * *

(As amended Jan. 2, 1975, Pub. L. 93–605, § 1, 88 Stat. 1965.)

REFERENCES IN TEXT

Provisions authorizing construction of vessels under Public Law 911, Eighty-first Congress, referred to in subsec. (i), are set out in chapter II of act Jan. 6, 1951, 64 Stat. 1225. These provisions were not classified to the Code.

AMENDMENTS

1975—Subsec. (i). Pub. L. 93–605 added subsec. (i). A prior subsec. (i) providing authority for the Secretary of Commerce to acquire vessels of one thousand five hundred gross tons or over which were constructed in the United States in exchange for more modern or efficient ocean-going vessels of one thousand five hundred gross tons or over owned by the United States under specified conditions expired on July 5, 1972.

SECRETARY OF COMMERCE AUTHORIZED TO PURCHASE STEAMSHIP UNITED STATES

Section 2 of Pub. L. 92–296, May 16, 1972, 86 Stat. 140 provided that: "The Secretary of Commerce is authorized and directed to purchase the steamship United States, as is, where is, at the depreciated cost of the vessel to the owner, as determined by the Secretary of Commerce, less the unpaid principal and interest on the mortgage on the vessel, for layup in the National Defense Reserve Fleet and operation for the account of any agency or department of the United States during any period in which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936 [section 1242 of this title], and/or for sale or charter to a qualified operator for operation under the American flag. The depreciated cost of the vessel to the owner shall be computed on the schedule adopted by the Internal Revenue Service for income tax purposes. Such determination shall be final. The Secretary of Commerce shall require the owner of the vessel to agree that it will pay all existing private obligations related to the vessel, and that it will be commit an amount equal to the net proceeds received from such sale in excess of existing obligations and expenses incident to the sale, within a reasonable period not to exceed twelve months of receipt, as equity capital for the construction of new vessels which the Secretary determines are built to effectuate the purposes and policy of the Merchant Marine Act, 1936, as amended [this chapter]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 App. section 1741.

SUBCHAPTER VI.—OPERATING-DIFFERENTIAL SUBSIDY

§ 1177. Capital construction fund.

* * * * *

(k) Definitions.

For purposes of this section—

* * * * *

(8) The term "noncontiguous trade" means (i) trade between the contiguous forty-eight States on the one hand and Alaska, Hawaii, Puerto Rico and the insular territories and possessions of the United States on the other hand, and (ii) trade from any point in Alaska, Hawaii, Puerto Rico, and such territories and possessions to any other point in Alaska, Hawaii, Puerto Rico, and such territories and possessions.

* * * * *

(As amended Oct. 1, 1973, Pub. L. 93–116, 87 Stat. 421.)

AMENDMENTS

1973—Subsec. (k)(8). Pub. L. 93–116 substituted "(ii) trade from any point in Alaska, Hawaii, Puerto Rico, and such territories and possessions to any other point in Alaska, Hawaii, Puerto Rico, and such territories and possessions." for "(ii) trade between Alaska, Hawaii, and Puerto Rico and such territories and possessions and (iii) trade between the islands of Hawaii."

DEPOSITS INTO CAPITAL RESERVE FUND

Section 6 of Pub. L. 92–507, Oct. 19, 1972, 86 Stat. 917 provided that: "Nothing in this Act [which enacted this note and amended subchapter XI of this chapter] shall limit or affect the right of an obligor who maintains a capital reserve fund under section 607 of the Merchant Marine Act, 1936 [this section] to make deposits of the proceeds of guaranteed obligations into such capital reserve fund as provided in subparagraph (c) of condition (6) of section 1107 of the Merchant Marine Act, 1936 [subparagraph (c) of condition (6) of former section 1276a of this title], as in effect prior to the effective date of this Act [Oct. 9, 1972]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1175, 1176, 1244 of this title; title 26 section 543.

§ 1183. Off-season cruises by passenger vessels.

* * * * *

(b) Authorization for payment of subsidy.

If the Secretary of Commerce finds that the operation of any passenger vessel with respect to which a contract for the payment of an operating-differential subsidy has been entered into under section 1173 of this title effective before January 2, 1960, is not required for all of each year, in order to furnish adequate service on the service, route, or line covered by such contract, he may amend such contract to agree to pay an operating-differential subsidy for operation of the vessel (1) on such service, route, or line for some part or no part of each year, and (2) on cruises for all or part of each year if such specific cruise is approved by the Secretary of Commerce under subsection (e) of this section: *Provided, however,* That no such vessel may cruise for more than seven months of each year to ports which are regularly served by another United States-flag passenger vessel pursuant to an operating-differential subsidy contract.

* * * * *

(d) Conditions for cruises or domestic service while on voyages in an essential service in foreign commerce.

When a vessel is being operated on cruises or has been authorized under this section to provide domestic passenger services while on voyages in an essential service in foreign commerce of the United States—

(1) except as provided in subdivision (4) of this subsection, it shall carry no mail unless required by law, or cargo except passengers' luggage, except between those ports between which it may carry mail and cargo on its regular service assigned by contract;

(2) it may not carry one-way passengers between those ports served by another United States carrier on its regular service assigned by contract, without the consent of such carrier, except between those ports between which it may carry one-way passengers on its own regular service assigned by contract;

(3) it shall stop at other domestic ports only for the same time and the same purpose as is permitted with respect to a foreign-flag vessel

which is carrying passengers who embarked at a domestic port, except that a cruise may end at a different port or coast from that where it began and may embark or disembark passengers at other domestic ports, either when not involving transportation in the domestic offshore trade in competition with a United States-flag passenger vessel offering berth service therein, or, if involving such transportation, with the consent of such carrier: *Provided, however,* That nothing herein shall be construed to repeal or modify section 1223(a) of this title.

(4) Any other provisions of this chapter or of the Shipping Act, 1916, to the contrary notwithstanding, with the approval of the Secretary of Commerce, it may carry cargo and mail between ports to the extent such carriage is not in direct competition with a carrier offering United States-flag berth service between those ports, or, if such carriage is in direct competition with one or more carriers offering United States-flag berth service between such ports, with the consent of the next scheduled United States-flag carrier, which consent shall not be unreasonably withheld in the judgment of the Maritime Administrator.

Section 1175(c) of this title shall not apply to cruises authorized under this section. Notwithstanding the applicable provisions of sections 1175(c) and 1156 of this title requiring the reduction of operating differential subsidy and the partial payback of construction differential subsidy for operating in the domestic trades, such reduction of operating subsidy and partial payback of construction subsidy under sections 1175(a) and 1156, respectively, of this title, shall not apply to cruises or domestic services authorized under this section.

(e) Application for approval of cruise; notice to other American flag operators.

Upon the application of any operator for approval of a specific cruise, the Secretary after notice to all other American flag operators who may be affected and after affording all such operators an opportunity to submit written data, views or arguments, with or without opportunity to present the same orally in any manner, and after consideration of all relevant matter presented, shall approve the proposed cruise, if he determines that the proposed cruise will not substantially adversely affect an existing operator's service performed with passenger vessels of United States registry. Such approval shall not be given more than two years in advance of the beginning of the cruise. (As amended June 30, 1972, Pub. L. 92–323, 86 Stat. 389.)

REFERENCES IN TEXT

The Shipping Act, 1916, referred to in subsec. (d)(4), is classified to chapter 23 (sec. 801 et seq.) of this title.

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–323, § 1(a), substituted provisions authorizing the Secretary of Commerce to permit passenger vehicles with respect to which an operating differential subsidy contract was entered into prior to January 2, 1960, to cruise for the whole year, for provisions permitting such passenger vessels to cruise off their essential trade routes for two-thirds of each year.

Subsec. (d). Pub. L. 92–323, § 1(b), added subd. (4) and qualified subd. (1) by making it subject to the provisions in subd. (4).

Subsec. (e). Pub. L. 92–323, § 1(c), changed phraseology.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 865a, 1171 to 1177, 1176, 1177, 1183a of this title.

SUBCHAPTER VII.—PRIVATE CHARTER OPERATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1160 of this title.

SUBCHAPTER VIII.—CONTRACT PROVISIONS

§ 1213. Contracts designed equitably for all ports; minimum allocation of funds; report to Congress; preference to citizens of United States; regional offices for Maritime Administration.

(a) Contracts under this chapter shall be entered into so as to equitably serve, insofar as possible, the foreign-trade requirements of the Atlantic, Gulf, Great Lakes, and Pacific ports of the United States. In order to assure equitable treatment for each range of ports referred to in the preceding sentence, not less than 10 percent of the funds appropriated for construction-differential subsidy and operating-differential subsidy pursuant to this chapter or any law authorizing funds for the purposes of this chapter shall be allocated to each such port range: *Provided, however,* That such allocation shall apply to the extent that subsidy contracts are approved by the Secretary of Commerce. Not later than March 1, 1976, and annually thereafter, the Secretary shall submit to Congress a detailed report (1) describing the actions that have been taken pursuant to this chapter to assure insofar as possible that direct and adequate service is provided by United States-flag commercial vessels to each range of ports referred to in this section; and (2) including any recommendations for additional legislation that may be necessary to achieve the purpose of this section. In awarding contracts under this chapter, preference shall be given to persons who are citizens of the United States and who have the support, financial and otherwise, of the domestic communities primarily interested.

(b) There shall be established and maintained within the Maritime Administration such regional offices as may be necessary, including, but not limited to, one such office for each of the four port ranges specified in subsection (a) of this section. The Secretary of Commerce shall appoint a qualified individual to be the Director of each such regional office and shall carry out appropriate functions, activities, and programs of the Maritime Administration through such regional offices. (As amended Mar. 23, 1975, Pub. L. 94–10, § 3, 89 Stat. 16; Nov. 13, 1975, Pub. L. 94–127, § 4, 89 Stat. 680.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–127 required minimum allocation of funds for each range of ports and submission of an annual report to Congress.

Pub. L. 94–10 designated existing provisions as subsec. (a) and added subsec. (b).

SUBCHAPTER VIII–A.—OFFENSES AND PENALTIES

§ 1228. Fines and penalties; conviction as rendering persons ineligible to receive benefits of law.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1276 of this title.

SUBCHAPTER IX.—MISCELLANEOUS PROVISIONS

§ 1241. Transportation in American vessels of Government personnel and certain cargoes.

* * * * *

(b) Cargoes procured, furnished or financed by United States; waiver in emergencies; exceptions; definition.

(1) Whenever the United States shall procure, contract for, or otherwise obtain for its own account, or shall furnish to or for the account of any foreign nation without provision for reimbursement, any equipment, materials, or commodities, within or without the United States, or shall advance funds or credits or guarantee the convertibility of foreign currencies in connection with the furnishing of such equipment, materials, or commodities, the appropriate agency or agencies shall take such steps as may be necessary and practicable to assure that at least 50 per centum of the gross tonnage of such equipment, materials or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers), which may be transported on ocean vessels shall be transported on privately owned United States-flag commercial vessels, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels, in such manner as will insure a fair and reasonable participation of United States-flag commercial vessels in such cargoes by geographic areas: *Provided*, That the provisions of this subsection may be waived whenever the Congress by concurrent resolution or otherwise, or the President of the United States or the Secretary of Defense declares that an emergency exists justifying a temporary waiver of the provisions of this paragraph and so notifies the appropriate agency or agencies: *And provided further*, That the provisions of this subsection shall not apply to cargoes carried in the vessels of the Panama Canal Company. Nothing herein shall repeal or otherwise modify the provisions of section 1241–1 of this title. For purposes of this section, the term "privately owned United States-flag commercial vessels" shall not be deemed to include any vessel which, subsequent to September 21, 1961, shall have been either (a) built outside the United States, (b) rebuilt outside the United States, or (c) documented under any foreign registry, until such vessel shall have been documented under the laws of the United States for a period of three years: *Provided, however*, That the provisions of this amendment shall not apply where, (1) prior to September 21, 1961, the owner of a vessel, or contractor for the purchase of a vessel, originally constructed in the United States and rebuilt abroad or contracted to be rebuilt abroad, has notified the Maritime Administration in writing of its intent to document such vessel under United States registry, and such vessel is so documented on its first arrival at a United States port not later than one year subsequent to September 21, 1961, or (2) where prior to September 21, 1961, the owner of a vessel under United States registry has made a contract for the rebuilding abroad of such vessel and has notified the Maritime Administration of such contract, and such rebuilding is completed and such vessel is thereafter documented under United States registry on its first arrival at a United States port not later than one year subsequent to September 21, 1961.

* * * * *

CODIFICATION

Subsec. (b) of this section is set out in this Supplement to correct an internal translation by substituting "section 1241–1 of this title" for "section 616a of Title 15".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2353 of this title; title 22 sections 2223, 2399d.

§ 1241–1. Shipment of exports financed by Government in United States vessels.

It is the sense of Congress that in any loans made by any instrumentality of the Government to foster the exporting of agricultural or other products, provision shall be made that such products shall be carried exclusively in vessels of the United States, unless, as to any or all of such products, the Secretary of Commerce, after investigation, shall certify to the instrumentality of the Government that vessels of the United States are not available in sufficient numbers, or in sufficient tonnage capacity, or on necessary sailing schedule, or at reasonable rates. (Mar. 26, 1934, ch. 90, 48 Stat. 500; June 29, 1936, ch. 858, title II, § 204, 49 Stat. 1987; 1950 Reorg. Plan No. 21, §§ 204, 305, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277; 1961 Reorg. Plan. No. 7, §§ 201, 202, 305, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840.)

CODIFICATION

Provisions reading "any loans made by any instrumentality of the Government" and "shall certify to the instrumentality of the Government" were substituted for "any loans made by the Reconstruction Finance Corporation or any other instrumentality of the Government" and "shall certify to the Reconstruction Finance Corporation or any other instrumentality of the Government" in view of the abolition of the Reconstruction Finance Corporation and transfer of its remaining functions to Housing and Home Finance Agency, Administrator of General Services, Administrator of Small Business Administration, and Secretary of Treasury pursuant to 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in Appendix II of Title 5, Government Organization and Employees.

Section, formerly classified to section 616a of Title 15, was not enacted as a part of the Merchant Marine Act of 1936, which comprises this chapter.

TRANSFER OF FUNCTIONS

"Secretary of Commerce" continued to be vested with functions conferred upon the Secretary by 1950 Reorg. Plan No. 21, on authority of 1961 Reorg. Plan No. 7, set out as a note under section 1111 of this title, such Plan also authorizing prescription of duties by the Secretary for performance by Assistant Secretary of Commerce for Maritime Affairs, designated Maritime Administrator of Maritime Administration.

"Secretary of Commerce" was substituted for "United States Maritime Commission" on authority of 1950 Reorg. Plan No. 21, set out as a note under section 1111 of this title, section 204 of such Plan also authorizing delegation of functions by the Secretary to Chairman of Federal Maritime Board, designated Maritime Administrator of Maritime Administration.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by 1949 Reorg. Plan No. 6, eff. Aug. 19, 1949, 14 F.R. 5228, 63 Stat. 1069. See note set out under section 1111 of this title.

Functions of former Shipping Board Bureau were assumed by United States Maritime Commission on Oct. 26, 1936, under provisions of Act June 29, 1936, set out as section 1114 of this title.

EXEMPTIONS

Functions authorized by Foreign Assistance Act of 1961, as amended, as exempt, see Ex. Ord. No. 11223, May 12, 1965, 30 F.R. 6635, set out as a note under section 2939 of Title 22, Foreign Relations and Intercourse.

Section 3 of act Aug. 3, 1956, ch. 933, 70 Stat. 988, provided that sales of fresh fruit and the products thereof under sections 1701 to 1709 of Title 7, Agriculture, should be exempt from the requirements of this section.

AMERICAN VESSELS FOR TRANSPORTATION OF CERTAIN CARGOES

Section not affected by other requirements regarding transportation of certain cargoes in American vessels, see section 1241(b) of this title.

§ 1241a. Vessel operations revolving fund; establishment; uses; limitation.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget. See Change of Name note set out under this section in the main volume.

§ 1242. Requisition or purchase of vessels in time of emergency.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 865a of this title.

§ 1244. Definitions.

When used in this chapter—

(a) The words "foreign commerce" or "foreign trade" mean commerce or trade between the United States, its Territories or possessions, or the District of Columbia, and a foreign country, except that in the context of section 1177 of this title concerning capital construction funds and in the context of subchapter V of this chapter concerning construction-differential subsidy, the said words "foreign commerce" or "foreign trade" shall also include, in the case of liquid and dry bulk cargo carrying services, trading between foreign ports in accordance with normal commercial bulk shipping practices in such manner as will permit U.S.-flag bulk vessels freely to compete with foreign-flag bulk carrying vessels in their operation or in competing for charters, subject to rules and regulations promulgated by the Secretary of Commerce pursuant to section 1114(b) of this title.

* * * * *

(As amended Aug. 22, 1972, Pub. L. 92–402. § 2. 86 Stat. 617.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–402 made definition of "foreign commerce" or "foreign trade" in context of subchapter V of this chapter concerning construction-differential subsidy applicable in context of section 1177 of this title concerning capital construction funds, made such definition subject to rules and regulations promulgated by the Secretary of Commerce pursuant to section 1114(b) of this title rather than only to uniform regulations promulgated by the Secretary and also applicable, in the case of bulk cargo carrying services, to trading between foreign ports in such manner as will permit U.S.-flag bulk carrying vessels freely to compete with foreign-flag bulk carrying vessels in their operation or in competing for charters.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1274 of this title.

SUBCHAPTER XI.—FEDERAL SHIP MORTGAGE INSURANCE

§ 1271. Definitions.

As used in this subchapter—

(a) The term "mortgage" includes a preferred mortgage as defined in the Ship Mortgage Act, 1920, as amended, on any vessel of the United States (other than a towboat, barge, scow, lighter, car float, canal boat, or tank vessel of less than twenty-five gross tons), and a mortgage on such a vessel which will become a preferred mortgage when recorded and endorsed as required by the Ship Mortgage Act, 1920, as amended:

(b) The term "vessel" includes all types, whether in existence or under construction, of passenger cargo and combination passenger-cargo carrying vessels, tankers, tugs, towboats, barges and dredges which are or will be documented under the laws of the United States, fishing vessels whose ownership will meet the citizenship requirements for documenting vessels in the coastwise trade within the meaning of section 802 of this title, floating drydocks which have a capacity of thirty-five thousand or more lifting tons and a beam of one hundred and twenty-five feet or more between the wing walls and oceanographic research or instruction or pollution treatment, abatement or control vessels owned by citizens of the United States;

(c) The term "obligation" shall mean any note, bond, debenture, or other evidence of indebtedness (exclusive of notes or other obligations issued by the Secretary of Commerce pursuant to section 1275(d) of this title and obligations eligible for investment of funds under sections 1272 and 1279a(d) of this title), issued for one of the purposes specified in section 1274(a) of this title;

(d) The term "obligor" shall mean any party primarily liable for payment of the principal of or interest on any obligation;

(e) The term "obligee" shall mean the holder of an obligation;

(f) The term "actual cost" of a vessel as of any specified date means the aggregate, as determined by the Secretary of Commerce, of (i) all amounts paid by or for the account of the obligor on or before that date, and (ii) all amounts which the obligor is then obligated to pay from time to time thereafter, for the construction, reconstruction, or reconditioning of such vessel;

(g) The term "depreciated actual cost" of a vessel means the actual cost of the vessel depreciated on a straightline basis over the useful life of the vessel as determined by the Secretary of Commerce, not to exceed twenty-five years from the date the vessel was delivered by the shipbuilder, or, if the vessel has been reconstructed or reconditioned, the actual cost of the vessel depreciated on a straightline basis from the date the vessel was delivered by the shipbuilder to the date of such reconstruction or reconditioning on the basis of the original useful life of the vessel and from the date of such reconstruction or reconditioning on a straightline basis and on the basis of a useful life of the vessel determined by the Secretary of Commerce, plus all amounts paid or obligated to be paid for the reconstruction or recon-

ditioning depreciated on a straightline basis and on the basis of a useful life of the vessel determined by the Secretary of Commerce; and

(h) The terms "construction," "reconstruction," or "reconditioning" shall include, but shall not be limited to, designing, inspecting, outfitting, and equipping. (As amended Oct. 19, 1972, Pub. L. 92–507, § 1, 86 Stat. 909.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–507 reduced the minimum size requirement for certain vessels from 200 gross tons to 25 gross tons.

Subsec. (b). Pub. L. 92–507 substituted definition of "vessel" for definition of "loan".

Subsec. (c). Pub. L. 92–507 substituted definition of "obligation" for definition of "vessel".

Subsec. (d). Pub. L. 92–507 substituted definition of "obligor" for definition of "mortgagee".

Subsec. (e). Pub. L. 92–507 substituted definition of "obligee" for the definition of "mortgagor".

Subsec. (f). Pub. L. 92–507 struck out the proviso and substituted obligor for mortgagor or borrower.

Subsecs. (g) and (h). Pub. L. 92–507 added subsecs. (g) and (h).

SHORT TITLE

Section 8 of Pub. L. 92–507 provided that: "This Act [amending sections 1271–1276, 1279a and 1279b of this title, repealing sections 1276a, 1277 and 1278 of this title, and enacting provisions set out as notes under sections 1177 and 1273 of this title] may be cited as the 'Federal Ship Financing Act of 1972'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1274 of this title.

§ 1272. Federal Ship Financing Fund.

There is created a Federal Ship Financing Fund (hereinafter referred to as the Fund) which shall be used by the Secretary of Commerce as a revolving fund for the purpose of carrying out the provisions of this subchapter, and there shall be allocated to such fund the sum of $1,000,000 out of funds made available to the Secretary of Commerce under the appropriation authorized by section 1279 of this title. Moneys in the Fund shall be deposited in the Treasury of the United States to the credit of the Fund or invested in bonds or other obligations of, or guaranteed as to principal and interest by, the United States. (As amended Oct. 19, 1972, Pub. L. 92–507, § 2, 86 Stat. 910.)

AMENDMENTS

1972—Pub. L. 92–507 substituted "Federal Ship Financing Fund" for "Federal Ship Mortgage Insurance Fund", and "Fund" for "fund" in four places.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1271, 1274, 1275 of this title.

§ 1273. Authorization of Secretary to guarantee obligations.

(a) Principal and interest.

The Secretary of Commerce, upon application by a citizen of the United States, is authorized to guarantee, and to enter into commitments to guarantee, the payment of the interest on, and the unpaid balance of the principal of, any obligation which is eligible to be guaranteed under this subchapter.

(b) Security interest.

No obligation shall be guaranteed under this subchapter unless the obligor conveys or agrees to convey to the Secretary of Commerce such security interest, which may include a mortgage or mortgages on a vessel or vessels, as the Secretary of Commerce may reasonably require to protect the interests of the United States.

(c) Amount of guarantee; percentage limitation; determination of actual cost of vessel.

The Secretary of Commerce shall not guarantee the principal of obligations in an amount in excess of 75 per centum, or 87½ per centum, whichever is applicable under section 1274 of this title, of the amount, as determined by the Secretary of Commerce which determination shall be conclusive, paid by or for the account of the obligor for the construction, reconstruction, or reconditioning of a vessel or vessels with respect to which a security interest has been conveyed to the Secretary of Commerce, unless the obligor creates an escrow fund as authorized by section 1279a of this title, in which case the Secretary of Commerce may guarantee 75 per centum or 87½ per centum, whichever is applicable under section 1274 of this title, of the actual cost of such vessel or vessels.

(d) Pledge of United States.

The full faith and credit of the United States is pledged to the payment of all guarantees made under this subchapter with respect to both principal and interest, including interest, as may be provided for in the guarantee, accruing between the date of default under a guaranteed obligation and the payment in full of the guarantee.

(e) Proof of obligations.

Any guarantee, or commitment to guarantee, made by the Secretary of Commerce under this subchapter shall be conclusive evidence of the eligibility of the obligations for such guarantee, and the validity of any guarantee, or commitment to guarantee, so made shall be incontestable.

(f) Limitation on outstanding amount.

The aggregate unpaid principal amount of the obligations guaranteed under this section and outstanding at any one time shall not exceed $7,000,000,000. (As amended Oct. 19, 1972, Pub. L. 92–507, § 3, 86 Stat. 910; July 10, 1973, Pub. L. 93–70, § 3, 87 Stat. 168; Nov. 13, 1975, Pub. L. 94–127, § 5, 89 Stat. 681.)

AMENDMENTS

1975—Subsec. (f). Pub. L. 94–127 increased limitation on amount of outstanding obligations from $5,000,000,000 to $7,000,000,000.

1973—Subsec. (f). Pub. L. 93–70 increased limitation on amount of outstanding obligations from $3,000,000,000 to $5,000,000,000.

1972—Subsec. (a). Pub. L. 92–507 incorporated provisions of former subsecs. (a) and (b) into subsec. (a) and substituted provisions authorizing the Secretary to guarantee the payment of principal and interest on the obligation for provisions authorizing the Secretary to insure a mortgage or a loan.

Subsec. (b). Pub. L. 92–507 added subsec. (b). Provisions of former subsec. (b) were incorporated into subsec. (a).

Subsec. (c). Pub. L. 92–507 substituted provisions making the Secretary's determination of actual cost of the vessel conclusive for the purposes of determining the maximum amount which may be guaranteed, for provisions making the mortgagee or lender the beneficiary of insurance contracts.

Subsec. (d). Pub. L. 92–507 substituted provisions pledging the full faith and credit of the United States

for payment of all guarantees with interest, for provisions pledging the faith of the United States to the payment of principal and interest of each mortgage and loan.

Subsec. (e). Pub. L. 92–507 added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 92–507 redesignated former subsec. (e) as subsec. (f), and in subsec. (f) as so redesignated, substituted "obligations guaranteed" for "mortgages and loans insured".

ELECTION OF COVERAGE

Section 7 of Pub. L. 92–507 provided that: "Any citizen of the United States to whom the Secretary of Commerce issued an approval in principle of an application for loan or mortgage insurance or a commitment with respect to such insurance under the provisions of title XI of the Merchant Marine Act, 1936 [this subchapter], prior to the effective date of this Act [Oct. 19, 1972] may elect, with respect to the vessels covered by such approval or commitment, to be bound either by the provisions of title XI of the Merchant Marine Act, 1936 [this subchapter], as in effect prior to the effective date of this Act [Oct. 19, 1972] or by the provisions of this Act [see Short Title note under section 1271 of this Title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1274 of this title.

§ 1274. Eligibility for guarantee.

(a) Purpose of obligations.

Pursuant to the authority granted under section 1273(a) of this title, the Secretary of Commerce, upon such terms as he shall prescribe, may guarantee or make a commitment to guarantee, payment of the principal of and interest on an obligation which aids in—

(1) financing, including reimbursement of an obligor for expenditures previously made for, construction, reconstruction, or reconditioning of a vessel or vessels owned by citizens of the United States which are designed principally for research, or for commercial use (A) in the coastwise or intercoastal trade; (B) on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States; (C) in foreign trade as defined in section 1244 of this title for purposes of subchapter V of this chapter; (D) in the fishing trade or industry; or (E) with respect to floating drydocks, in the construction, reconstruction, reconditioning, or repair of vessels: *Provided, however*, That no guarantee shall be entered into pursuant to this paragraph (a)(1) later than one year after delivery, or redelivery in the case of reconstruction or reconditioning of any such vessel unless the proceeds of the obligation are used to finance the construction, reconstruction, or reconditioning of a vessel or vessels, or facilities or equipment pertaining to marine operations;

(2) financing the purchase of vessels heretofore acquired by the Fund under the provisions of section 1275 of this title and reconditioning and reconstructing such vessels;

(3) financing, in whole or in part, the repayment to the United States of any amount of construction-differential subsidy paid with respect to a vessel pursuant to subchapter V of this chapter;

(4) refinancing existing obligations issued for one of the purposes specified in (1), (2), or (3) whether or not guaranteed under this subchapter, including, but not limited to, short-term obligations incurred for the purpose of obtaining temporary funds with the view to refinancing from time to time.

(b) Contents of obligations.

Obligations guaranteed under this subchapter—

(1) shall have an obligor approved by the Secretary of Commerce as responsible and possessing the ability, experience, financial resources, and other qualifications necessary to the adequate operation and maintenance of the vessel or vessels which serve as security for the guarantee of the Secretary of Commerce;

(2) subject to the provisions of paragraph (1) of subsection (c) of this section, shall be in an aggregate principal amount which does not exceed 75 per centum of the actual cost or depreciated actual cost, as determined by the Secretary of Commerce, of the vessel which is used as security for the guarantee of the Secretary of Commerce: *Provided, however*, That in the case of a vessel, the size and speed of which are approved by the Secretary of Commerce, and which is or would have been eligible for mortgage aid for construction under section 1159 of this title (or would have been eligible for mortgage aid under section 1159 of this title except that the vessel was built with the aid of construction-differential subsidy and said subsidy has been repaid) and in respect of which the minimum downpayment by the mortgagor required by that section would be or would have been 12½ per centum of the cost of such vessel, such obligations may be in an amount which does not exceed 87½ per centum of such actual cost or depreciated actual cost: *Provided, further*, That the obligations which relate to a barge which is constructed without the aid of construction-differential subsidy, or, if so subsidized, on which said subsidy has been repaid, may be in an aggregate principal amount which does not exceed 87½ per centum of the actual cost or depreciated actual cost thereof;

(3) shall have maturity dates satisfactory to the Secretary of Commerce but, subject to the provisions of paragraph (2) of subsection (c) of this section, not to exceed twenty-five years from the date of the delivery of the vessel which serves as security for the guarantee of the Secretary of Commerce or, if the vessel has been reconstructed or reconditioned, not to exceed the later of (i) twenty-five years from the date of delivery of the vessel and (ii) the remaining years of the useful life of the vessel as determined by the Secretary of Commerce;

(4) shall provide for payments by the obligor satisfactory to the Secretary of Commerce;

(5) shall bear interest (exclusive of charges for the guarantee and service charges, if any) at rates not to exceed such per centum per annum on the unpaid principal as the Secretary of Commerce determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary of Commerce;

(6) shall provide, or a related agreement shall provide, that if the vessel used as security for the guarantee of the Secretary of Commerce is a

delivered vessel, the vessel shall be in class A–1, American Bureau of Shipping, or shall meet such other standards as may be acceptable to the Secretary of Commerce, with all required certificates, including but not limited to, marine inspection certificates of the United States Coast Guard, with all outstanding requirements and recommendations necessary for retention of class accomplished, unless the Secretary of Commerce permits a deferment of such repairs, and shall be tight, stanch, strong, and well and sufficiently tackled, appareled, furnished, and equipped, and in every respect seaworthy and in good running condition and repair, and in all respects fit for service; and

(7) may provide, or a related agreement may provide, if the vessel used as security for the guarantee of the Secretary of Commerce is a passenger vessel having the tonnage, speed, passenger accommodations and other characteristics set forth in subchapter V of this chapter, and if the Secretary of Commerce approves, that the sole recourse against the obligor by the United States for any payments under the guarantee shall be limited to repossession of the vessel and the assignment of insurance claims and that the liability of the obligor for any payments of principal and interest under the guarantee shall be satisfied and discharged by the surrender of the vessel and all right, title, and interest therein to the United States: *Provided*, That the vessel upon surrender shall be (i) free and clear of all liens and encumbrances whatsoever except the security interest conveyed to the Secretary of Commerce under this subchapter, (ii) in class, and (iii) in as good order and condition, ordinary wear and tear excepted, as when acquired by the obligor, except that any deficiencies with respect to freedom from encumbrances, condition and class may, to the extent covered by valid policies of insurance, be satisfied by the assignment to the Secretary of Commerce of claims of the obligor under such policies.

(c) Security.

(1) The security for the guarantee of an obligation by the Secretary of Commerce under this subchapter may relate to more than one vessel and may consist of any combination of types of security. The aggregate principal amount of obligations which have more than one vessel as security for the guarantee of the Secretary of Commerce under this subchapter may equal, but not exceed, the sum of the principal amount of obligations permissible with respect to each vessel.

(2) If the security for the guarantee of an obligation by the Secretary of Commerce under this subchapter relates to more than one vessel, such obligation may have the latest maturity date permissible under subsection (b) of this section with respect to any of such vessels: *Provided*, That the Secretary of Commerce may require such payments of principal, prior to maturity, with respect to all related obligations as he deems necessary in order to maintain adequate security for his guarantee.

(d) Restrictions.

No commitment to guarantee an obligation shall be made by the Secretary of Commerce unless he finds, at or prior to the time such commitment is made, that the property or project with respect to which the obligation will be executed will be, in his opinion, economically sound and in the case of fishing vessels, that the purpose of the financing or refinancing is consistent with the wise use of the fisheries resources and with the development, advancement, management, conservation, and protection of the fisheries resources, and no obligation, unless made pursuant to a prior commitment, shall be guaranteed unless the Secretary of Commerce finds, at or prior to the time the guarantee becomes effective, that the property or project with respect to which the obligation is executed will be, in his opinion, economically sound and in the case of fishing vessels, that the purpose of the financing or refinancing is consistent with the wise use of the fisheries resources and with the development, advancement, management, conservation, and protection of the fisheries resources.

(e) Guarantee fees.

The Secretary of Commerce is authorized to fix a fee for the guarantee of an obligation under this subchapter. If the security for the guarantee of an obligation under this subchapter relates to a delivered vessel, such fee shall not be less than one-half of 1 per centum per annum nor more than 1 per centum per annum of the average principal amount of such obligation outstanding, excluding the average amount (except interest) on deposit in an escrow fund created under section 1279a of this title. If the security for the guarantee of an obligation under this subchapter relates to a vessel to be constructed, reconstructed, or reconditioned, such fee shall not be less than one-quarter of 1 per centum per annum nor more than one-half of 1 per centum per annum of the average principal amount of such obligation outstanding, excluding the average amount (except interest) on deposit in an escrow fund created under section 1279a of this title. For purposes of this subsection (e), if the security for the guarantee of an obligation under this subchapter relates both to a delivered vessel or vessels and to a vessel or vessels to be constructed, reconstructed, or reconditioned, the principal amount of such obligation shall be prorated in accordance with regulations prescribed by the Secretary of Commerce. Fee payments shall be made by the obligor to the Secretary of Commerce when moneys are first advanced under a guaranteed obligation and at least sixty days prior to each anniversary date thereafter. All fees shall be computed and shall be payable to the Secretary of Commerce under such regulations as the Secretary of Commerce may prescribe.

(f) Investigation of applications.

The Secretary of Commerce shall charge and collect from the obligor such amounts as he may deem reasonable for the investigation of applications for a guarantee, for the appraisal of properties offered as security for a guarantee, for the issuance of commitments, for services in connection with the escrow fund authorized by section 1279a of this title and for the inspection of such properties during construction, reconstruction, or reconditioning: *Provided*, That such charges shall not aggregate more

than one-half of 1 per centum of the original principal amount of the obligations to be guaranteed.

(g) Disposition of moneys.

All moneys received by the Secretary of Commerce under the provisions of sections 1271 to 1276 and 1279 of this title shall be deposited in the Fund.

(h) Additional requirements

Obligations guaranteed under this subchapter and agreements relating thereto shall contain such other provisions with respect to the protection of the security interests of the United States (including acceleration and subrogation provisions and the issuance of notes by the obligor to the Secretary of Commerce), liens and releases of liens, payments of taxes, and such other matters as the Secretary of Commerce may, in his discretion, prescribe. (As amended Oct. 19, 1972, Pub. L. 92–507, § 3, 86 Stat. 910.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–507 substituted provisions relating to the purposes for which guarantees may be made, for provisions relating to the eligibility of mortgages for insurance.

Subsec. (b). Pub. L. 92–507 substituted provisions relating to the eligibility requirements of obligations for guarantee, for provisions relating to the eligibility of loans for insurance.

Subsec. (c). Pub. L. 92–507 substituted provisions that security for guarantee may relate to more than one vessel, that security may consist of any combination of types of security, and that an obligation may have the latest maturity date permissible for any vessel which serves as security for the government guarantee of the related obligations, for provisions relating to the prior determination of the soundness of the property or project for mortgage or loan.

Subsec. (d). Pub. L. 92–507 incorporated provisions of former subsec. (c) into subsec. (d) and extended provisions of this subchapter to commercial fishing vessels. Provisions of former subsec. (d) were incorporated into subsec. (e).

Subsec. (e). Pub. L. 92–507 incorporated provisions of former subsec. (d) into subsec. (e) and substituted therein provisions authorizing the Secretary to fix a fee for the guarantee of obligations and providing separate formulae for delivered vessels and vessels under construction, for provisions authorizing the Secretary to fix a premium charge for the insurance of mortgages and loans and providing separate formulae for mortgages and loans by reference to section 1273 of this title. Provisions of former subsec. (e) were incorporated into subsec. (f).

Subsec. (f). Pub. L. 92–507 incorporated provisions of former subsec. (e), relating to the collection of investigation fees from applicants for insurance into subsec. (f), and substituted therefor provisions relating to the collection of investigation fees from applicants for guarantee. Provisions of former subsec. (f) incorporated into subsec. (g).

Subsec. (g). Pub. L. 92–507 incorporated provisions of former subsec. (f) into subsec. (g).

Subsec. (h). Pub. L. 92–507 added subsec. (h).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1271, 1273, 1279a of this title.

§ 1275. Defaults.

(a) Rights of obligee.

In the event of a default, which has continued for thirty days, in any payment by the obligor of principal or interest due under an obligation guaranteed under this subchapter, the obligee or his agent shall have the right to demand, at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than ninety days from the date of such default, payments by the Secretary of Commerce of the unpaid principal amount of said obligation and of the unpaid interest thereon to the date of payment. Within such period as may be specified in the guarantee or related agreements, but not later than thirty days from the date of such demand, the Secretary of Commerce shall promptly pay to the obligee or his agent the unpaid principal amount of said obligation and unpaid interest thereon to the date of payment: *Provided*, That the Secretary of Commerce shall not be required to make such payment if prior to the expiration of said period he shall find that there was no default by the obligor in the payment of principal or interest or that such default has been remedied prior to any such demand.

(b) Notice of default.

In the event of a default under a mortgage, loan agreement, or other security agreement between the obligor and the Secretary of Commerce, the Secretary of Commerce may notify the obligee or his agent of such default and the obligee or his agent shall have the right to demand at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than sixty days from the date of such notice, payment by the Secretary of Commerce of the unpaid principal amount of said obligation and of the unpaid interest thereon. Within such period as may be specified in the guarantee or related agreements, but not later than thirty days from the date of such demand, the Secretary of Commerce shall promptly pay to the obligee or his agent the unpaid principal amount of said obligation and unpaid interest thereon to the date of payment.

(c) Secretary to complete, sell or operate property.

In the event of any payment by the Secretary of Commerce under subsection (a) or (b) of this section, the Secretary of Commerce shall have all rights in any security held by him relating to his guarantee of such obligations as are conferred upon him under any security agreement with the obligor. Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of property by the United States, the Secretary of Commerce shall have the right, in his discretion, to complete, recondition, reconstruct, renovate, repair, maintain, operate, charter, or sell any property acquired by him pursuant to a security agreement with the obligor or may place a vessel in the national defense reserve. The terms of the sale shall be as approved by the Secretary of Commerce.

(d) Cash payments; issuance of notes or obligations.

Any amount required to be paid by the Secretary of Commerce pursuant to subsection (a) or (b) of this section, shall be paid in cash. If at any time the moneys in the Fund authorized by section 1272 of this title are not sufficient to pay any amount the Secretary of Commerce is required to pay by subsection (a) or (b) of this section, the Secretary of Commerce is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of Commerce, with the

approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations to be issued hereunder and for such purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Funds borrowed under this section shall be deposited in the Fund and redemptions of such notes and obligations shall be made by the Secretary of Commerce from such Fund.

(e) Actions against obligor.

In the event of a default under any guaranteed obligation or any related agreement, the Secretary of Commerce shall take such action against the obligor or any other parties liable thereunder that, in his discretion, may be required to protect the interests of the United States. Any suit may be brought in the name of the United States or in the name of the obligee and the obligee shall make available to the United States all records and evidence necessary to prosecute any such suit. The Secretary of Commerce shall have the right, in his discretion, to accept a conveyance of title to and possession of property from the obligor or other parties liable to the Secretary of Commerce, and may purchase the property for an amount not greater than the unpaid principal amount of such obligation and interest thereon. In the event the Secretary of Commerce shall receive through the sale of property an amount of cash in excess of any payment made to an obligee under subsection (a) or (b) of this section and the expenses of collection of such amounts, he shall pay such excess to the obligor. (As amended Oct. 19, 1972, Pub. L. 92–507, § 3, 86 Stat. 914.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–507 substituted provisions relating to the rights of obligee to demand and receive payment from the Secretary under certain circumstances, for provisions relating to the rights of mortgagee and lender to demand and receive payment under certain circumstances and the authority of the Secretary to terminate the insurance contract by notification to the mortgagee or the lender as the case may be.

Subsec. (b). Pub. L. 92–507 added provisions relating to notification of default to the obligee, and payment of unpaid principal and interest amount, by the Secretary within certain time. Former subsec. (b) redesignated (d).

Subsec. (c). Pub. L. 92–507 incorporated substantially the provisions of subsec. (d) into subsec. (c). Former subsec. (c) is now covered by subsec. (e).

Subsec. (d). Pub. L. 92–507 incorporated provisions of former subsec. (b) into subsec. (d). Former subsec. (d) is now covered by subsec. (c).

Subsec. (e). Pub. L. 92–507 incorporated provisions of former subsec. (c) relating to actions by the Secretary in the event of defaults by mortgagors and borrowers, into subsec. (e), and substituted therefor provisions relating to actions by the Secretary in the event of defaults by obligors of guaranteed obligations and related agreements. Provisions of former subsec. (e) relating to termination and cancellation of insurance contracts and the incontestability of such contracts except for fraud, duress or mutual mistake of fact are omitted.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1271, 1274, 1280 of this title.

§ 1276. Offenses and penalties.

Whoever, for the purpose of obtaining any loan or advance of credit from any person, partnership, association, or corporation with the intent that an obligation relating to such loan or advance of credit shall be offered to or accepted by the Secretary of Commerce to be guaranteed, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage relating to an obligation guaranteed by the said Secretary of Commerce, or the acceptance, release, or substitution of any security on such a loan, advance of credit, or for the purpose of influencing in any way the action of said Secretary of Commerce under this subchapter, makes, passes, utters, or publishes, or causes to be made, passed, uttered, or published any statement, knowing the same to be false, or alters, forges, or counterfeits, or causes or procures to be altered, forged, or counterfeited, any instrument, paper, or document, or utters, publishes, or passes as true, or causes to be uttered, published, or passed as true, any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or willfully overvalues any security, asset, or income shall be guilty of a misdemeanor and punished as provided under the first paragraph of section 1228 of this title. (As amended Oct. 19, 1972, Pub. L. 92–507, § 3, 86 Stat. 915.)

AMENDMENTS

1972—Pub. L. 92–507 substituted provisions relating to offenses and penalties, for provisions relating to insurance of mortgages securing existing loans and refinancing of existing mortgages.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1274 of this title.

§§ 1276a to 1278. Repealed. Pub. L. 92–507, § 3, Oct. 19, 1972, 86 Stat. 910.

Section 1276a, act June 29, 1936, ch. 858, § 1107, as added July 31, 1959, Pub. L. 86–123, § 1(5), 73 Stat. 269, and amended June 12, 1960, Pub. L. 86–518, §§ 1, 7, 74 Stat. 216, related to the authority of the Secretary to make commitments to insure mortgages.

Section 1277, act June 29, 1936, ch. 858, § 1108, formerly § 1107, as added June 23, 1938, ch. 600, § 46, 52 Stat. 973, amended Sept. 3, 1954, ch. 1265, § 7, 68 Stat. 1275, and renumbered July 31, 1959, Pub. L. 86–123, § 1(1), 73 Stat. 269, related to offenses and set the penalties therefor. See section 1276 of this title.

Section 1278, act June 29, 1936, ch. 858, § 1109, formerly § 1108, as added June 23, 1938, ch. 600, § 46, 52 Stat. 973, amended Sept. 3, 1954, ch. 1265, § 8, 68 Stat. 1276, and renumbered July 31, 1959, Pub. L. 86–123, § 1(1), 73 Stat. 269, authorized the promulgation of rules and regulations. See now section 1279b of this title.

§ 1279. Appropriations.

Section renumbered section 1110 of act June 29, 1936, by Pub. L. 86–123, § 1(1), July 31, 1959, 73 Stat. 269, and further renumbered section 1107 by Pub. L. 92–507, § 4, Oct. 19, 1972, 86 Stat. 916.

§ 1279a. Escrow fund.

(a) Creation.

If the proceeds of an obligation guaranteed under this subchapter are to be used to finance the construction, reconstruction, or reconditioning of a vessel or vessels which will serve as security for the guarantee of the Secretary of Commerce, the Secretary of Commerce is authorized to accept and hold, in escrow under an escrow agreement with the obligor, a portion of the proceeds of all obligations guaranteed under this subchapter whose proceeds are to be so used which is equal to: (i) the excess of the principal amount of all obligations whose proceeds are to be so used over 75 per centum, or 87½ per centum, whichever is applicable under section 1274 of this title, of the amount paid by or for the account of the obligor for the construction, reconstruction, or reconditioning of the vessel or vessels; (ii) with such interest thereon, if any, as the Secretary of Commerce may require: *Provided*, That in the event the security for the guarantee of an obligation by the Secretary of Commerce relates both to a vessel or vessels to be constructed, reconstructed or reconditioned and to a delivered vessel or vessels, the principal amount of such obligation shall be prorated for purposes of this subsection (a) under regulations prescribed by the Secretary of Commerce.

(b) Disbursement prior to termination of escrow agreement.

The Secretary of Commerce shall, as specified in the escrow agreement, disburse the escrow fund to pay amounts the obligor is obligated to pay as interest on such obligations or for the construction, reconstruction, or reconditioning of the vessel or vessels used as security for the guarantee of the Secretary of Commerce under this subchapter, to redeem such obligations in connection with a refinancing under paragraph (4) of section 1274(a) of this title or to pay to the obligor at such times as may be provided for in the escrow agreement any excess interest deposits, except that if payments become due under the guarantee prior to the termination of the escrow agreement, all amounts in the escrow fund at the time such payments become due (including realized income which has not yet been paid to the obligor) shall be paid into the Fund and (i) be credited against any amounts due or to become due to the Secretary of Commerce from the obligor with respect to the guaranteed obligations and (ii) to the extent not so required, be paid to the obligor.

(c) Disbursement upon termination of escrow agreement.

If payments under the guarantee have not become due prior to the termination of the escrow agreement, any balance of the escrow fund at the time of such termination shall be disbursed to prepay the excess of the principal of all obligations whose proceeds are to be used to finance the construction, reconstruction, or reconditioning of the vessel or vessels which serve or will serve as security for such guarantee over 75 per centum or 87½ per centum, whichever is applicable under section 1274 of this title, of the actual cost of such vessel or vessels to the extent paid, and to pay interest on such prepaid amount of principal, and the remainder of such balance of the escrow fund shall be paid to the obligor.

(d) Investment of fund.

The Secretary of Commerce may invest and reinvest all or any part of the escrow fund in obligations of the United States with such maturities that the escrow fund will be available as required for purposes of the escrow agreement.

(e) Payment of income.

Any income realized on the escrow fund shall upon receipt, be paid to the obligor.

(f) Terms of escrow agreement.

The escrow agreement shall contain such other terms as the Secretary of Commerce may consider necessary to protect fully the interests of the United States. (June 29, 1936, ch. 858, § 1108, formerly § 1111, as added July 31, 1959, Pub. L. 86–127, § 1(2), 73 Stat. 272, renumbered and amended Oct. 19, 1972, Pub. L. 92–507, § 5, 86 Stat. 916.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–507 substantially reenacted subsec. (a) and substituted requirement that an escrow fund be created out of proceeds of obligations, for requirement that such fund be created out of sale of bonds.

Subsec. (b). Pub. L. 92–507 substituted provisions for the disbursement of escrow fund to pay certain payments the obligor is obligated to pay, for provisions for the disbursement of such fund to pay certain payments the mortgagor or borrower is obligated to pay.

Subsec. (c). Pub. L. 92–507 substituted provisions for the disbursement of the remainder of funds in the escrow fund to the obligor on the termination of the escrow agreement, for provisions for the disbursement of such funds to the mortgagor or borrower as the case may be.

Subsec. (d). Pub. L. 92–507 substituted "the escrow fund" for "such fund".

Subsec. (e). Pub. L. 92–507 substituted provisions for payment of income to obligor, for provisions for payment of such income to mortgagor or borrower.

Subsec. (f). Pub. L. 92–507 substituted "to protect fully" for "to fully protect".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1271, 1273, 1274 of this title.

§ 1279b. Rules and regulations.

The Secretary of Commerce is authorized and directed to make such rules and regulations as may be deemed necessary or appropriate to carry out the purposes and provisions of this subchapter. (June 29, 1936, ch. 858, § 1108, formerly § 1111, as added July 31, 1959, Pub. L. 86–127, § 1(2), 73 Stat. 272, renumbered and amended Oct. 19, 1972, Pub. L. 92–507, § 5, 86 Stat. 917.)

AMENDMENTS

1972—Pub. L. 92–507 substituted authority of the Secretary to make rules and regulations, for provisions relating to insurance of mortgage securing loan for restoration and return of merchant vessel, Kaiulani.

§ 1280. Advances to fund.

The Secretary of Commerce is authorized to advance to the Federal Ship Financing Fund from the "Vessel operations revolving fund", such amounts as may be required for the payment, pursuant to section 1275 of this title, of unpaid principal amounts of defaulted mortgages and loans and of unpaid interest thereon: *Provided*, That such advances shall be repaid to the "Vessel operations revolving fund" as

soon as practicable consistent with the status of the Federal Ship Financing Fund: *Provided further*, That the total advances outstanding at any one time shall not exceed $10,000,000. (As amended Pub. L. 92–507, § 2, Oct. 19, 1972, 86 Stat. 910.)

CODIFICATION

"Federal Ship Financing Fund" was substituted for "Federal Ship Mortgage Insurance Fund" to conform to change of name in the amendment of section 1272 of this title by Pub. L. 92–507, § 2, Oct. 19, 1972, 86 Stat. 910.

Chapter 31.—MARITIME ACADEMY PROGRAM

§ 1382. Vessels for maritime academies.

* * * * * *

(c) In any case where the Secretary has not, prior to July 9, 1971, furnished a suitable vessel to a State as authorized by subsection (a) of this section, the Secretary may, in lieu of furnishing such a vessel, repair, recondition and equip (including all apparel, charts, books, and instruments of navigation) as necessary, a vessel which is owned by a State on July 9, 1971, for use as a training vessel for a maritime academy or college meeting the requirements of this chapter. (As amended Pub. L. 92–53, § 2, July 9, 1971, 85 Stat. 146.)

AMENDMENT

1971—Subsec. (c). Pub. L. 92–53 added subsec. (c).

Chapter 32.—CONSTRUCTION ASSISTANCE FOR FISHING VESSELS

§ 1402. Application for subsidy; conditions.

EMPLOYMENT OF FOREIGN CITIZENS ON THE STERN TRAWLER "SEAFREEZE ATLANTIC"

Pub. L. 94–150, Dec. 15, 1975, 89 Stat. 807, provided:

"That the Congress finds that the purposes and objectives of the United States Fishing Fleet Improvement Act, as amended (46 U.S.C. 1401–1413) [this chapter] are not being fulfilled in the case of the large stern trawler *Seafreeze Atlantic*, Official Number 517242 (hereafter referred to in this Act as the '*Seafreeze Atlantic*'), a vessel of advanced design built under the provisions of that Act, because of the unavailability of skilled United States citizens or skilled aliens legally domiciled in the United States who can be employed as fish processors and fishermen aboard such vessel.

"Sec. 2. (a) Notwithstanding any requirement of item (5), section 2, of the United States Fishing Fleet Improvement Act [cl. (5) of this section], of any other provision of law, or of any provision of any contract to which the United States is a party, during the four-year period beginning on the date of the enactment of this Act [Dec. 15, 1975], the owner of the *Seafreeze Atlantic* may employ foreign citizens as crew members of such vessel for service as fish processors and fishermen if at all times during such four-year period—

"(1) the master and all of the officers of the vessel are citizens of the United States;

"(2) citizens of the United States and aliens legally domiciled in the United States comprise not less than 40 percent of the crew;

"(3) any foreign citizen so employed is only used as a fisherman or fish processor aboard the vessel; and

"(4) the owner of the vessel undertakes to hire and train United States citizens or aliens legally domiciled in the United States as fish processors or fishermen aboard the vessel in order to assure a future supply of available United States citizens or aliens legally domiciled in the United States who will be qualified as fish processors or fishermen aboard advanced design trawlers.

"(b) If at any time during such four-year period the Secretary of Commerce finds that the owner of the *Seafreeze Atlantic* is not in compliance with one or more of the conditions set forth in paragraphs (1) through (4) of subsection (a), the Secretary may prohibit the owner from employing foreign citizens as crew members of such vessel for such period of time as the Secretary deems appropriate.

"Sec. 3. Section 2(a) of this Act shall cease to apply at the close of the four-year period referred to in such section; except that if the owner of the *Seafreeze Atlantic* provides evidence satisfactory to the Secretary of Commerce that—

"(1) qualified fish processors or fishermen who are citizens of the United States or aliens legally domiciled in the United States will not be available in sufficient number for employment on the vessel after the close of such period;

"(2) he has instituted and will continue a program to train United States citizens or legally domiciled aliens as fish processors or fishermen; and

"(3) he is making satisfactory progress, as determined by the Secretary, in employing only United States citizens or legally domiciled aliens on the vessel;

the Secretary of Commerce may permit the *Seafreeze Atlantic* to be operated with fishermen or fish processors who are foreign citizens for such additional periods and under such conditions as he deems appropriate; except that the conditions set forth in paragraphs (1), (2), and (3) of section 2(a) shall apply during any such additional period.

"Sec. 4. The provisions of this Act shall not be construed as an amendment of the United States Fishing Fleet Improvement Act [this chapter], except to the extent applicable to *Seafreeze Atlantic*, and any contract with the United States entered into before the date of the enactment of this Act with respect to the construction and operation of such vessel shall continue in full force and effect except that the Secretary of Commerce may amend any such contract in such a manner as he deems necessary in order to implement the provisions of this Act. The Secretary may impose such conditions as may be necessary to assure that the provisions of this Act will be complied with by the owner of the *Seafreeze Atlantic* and may undertake to amend appropriately any documents executed in connection with the construction and operation of such vessel, but if the owner does not consent to any such amendment, the Act shall cease to apply."

Chapter 33.—COORDINATED NATIONAL BOATING SAFETY PROGRAM [New]

Sec.
1451. Declaration of policy and purpose.
1452. Definitions.
1453. Applicability of chapter.
1454. Safety regulations and standards for boats and equipment; effective date.
1455. Prescribing regulations and standards.
1456. Display of labels evidencing compliance.
1457. Delegation of examination, inspection and testing functions.
1458. Exemptions.
1459. Federal preemption in the issuance of standards.
1460. Admission of nonconforming foreign-made boats.
1461. Prohibited acts.
    (a) Manufacture, importation or sale of nonconforming boats or equipment, except for exportation; false certification of compliance with standards; failure to give defect notification or remedy defect.
    (b) Applicability of penalties.
    (c) Use of vessel in violation of regulations.
    (d) Negligent use of vessel.
    (e) Use of vessel carrying passengers for hire, except in the charge of a licensed operator.
    (f) Applicability of licensed operator requirement.
1462. Termination of unsafe use.
1463. Inspection, investigation and reporting; trade secrets provided to Secretary in confidence.

Sec.
1464. Repair or replacement of defects.
(a) Notification by manufacturer.
(b) Persons to be notified and manner of notification.
(c) Contents of notification.
(d) Copy of notification for Secretary; public disclosure by Secretary.
(e) Determination of defect by Secretary; notice to manufacturer and notification by manufacturer; proceeding where manufacturer disputes Secretary's findings.
(f) "Associated equipment".
(g) Rule making powers of Secretary.
1465. Rendering of assistance in casualties; liability exemption.
1466. Vessels requiring numbering.
1467. Standard numbering system.
(a) Promulgation by Secretary; approval of State numbering system.
(b) Limitations on prior numbering systems of a State.
(c) Numbered vessel as in compliance when temporarily used in any State.
(d) Limited recognition of previously issued number by new State of principal use.
(e) Limited recognition by State of previously issued Federal number.
(f) Withdrawal of approval of State numbering system.
1468. Exemption from numbering provisions.
1469. Description and possession of certificate of number; transfer of interest in vessel; notice of change of address.
1470. Display of number.
1471. Safety certificates.
1472. Promulgation of regulations dealing with numbering and casualty reporting.
1473. Furnishing of vessel numbering and registration information.
1474. Establishment and acceptance of State boating safety programs.
1475. Boating safety program content
1476. Allocation of Federal funds.
1477. Allocation of funds.
(a) Limitations.
(b) Unobligated funds.
(c) Unallocated funds.
1478. Determination of State funds expanded for boating safety program.
1479. Authorization of appropriations for State boating safety programs.
1480. Payments of amounts allocated to the States.
(a) Method.
(b) Scheduling of payments.
(c) Termination upon failure to comply.
(d) Records, availability for audit.
1481. Consultation and cooperation.
1482. Boating Safety Advisory Council.
(a) Establishment; membership.
(b) Consultation with Secretary.
(c) Compensation.
1483. Criminal penalties.
1484. Civil penalties.
(a) Violation of provisions dealing with construction standards, labeling and manufacturer's obligation to give notice and remedy defects.
(b) Violation of any other provision of this chapter or regulations issued thereunder.
(c) Discretionary powers of Secretary.
(d) Collection referral.
1485. Injunctive proceedings.
1486. Casualty reporting systems.
(a) Promulgation by Secretary.
(b) State reports to Secretary.
(c) Fatal casualties; casualties in the order of gravity.
(d) Reporting of casualties.
(e) Publication of reports and recommendations.
Sec.
1487. Authorization of appropriations.
1488. Rules and regulations.
1489. Savings provision.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 526u of this title; title 15 section 2052.

§ 1451. Declaration of policy and purpose.

It is hereby declared to be the policy of Congress and the purpose of this chapter to improve boating safety and to foster greater development, use, and enjoyment of all the waters of the United States by encouraging and assisting participation by the several States, the boating industry, and the boating public in development of more comprehensive boating safety programs; by authorizing the establishment of national construction and performance standards for boats and associated equipment; and by creating more flexible regulatory authority concerning the use of boats and equipment. It is further declared to be the policy of Congress to encourage greater and continuing uniformity of boating laws and regulations as among the several States and the Federal Government, a higher degree of reciprocity and comity among the several jurisdictions, and closer cooperation and assistance between the Federal Government and the several States in developing, administering, and enforcing Federal and State laws and regulations pertaining to boating safety. (Pub. L. 92–75, § 2, Aug. 10, 1971, 85 Stat. 213.)

SHORT TITLE

Section 1 of Pub. L. 92–75 provided: "That this Act [enacting this chapter and notes thereunder, amending section 526u of this title and repealing sections 526f, 526*l*, 526m, 527–527h and notes thereunder] may be cited as the 'Federal Boat Safety Act of 1971'."

ANTITRUST LAWS OF THE UNITED STATES UNIMPAIRED BY THIS CHAPTER

Section 41(d) of Pub. L. 92–75 provided that: "Nothing contained in this Act [this chapter] shall be deemed to exempt from the antitrust laws of the United States any conduct that would be unlawful under such laws, or to prohibit under the antitrust laws of the United States any conduct that would be lawful under such laws."

EXEMPTION OF CERTAIN VESSELS

Section 41(c) of Pub. L. 92–75 provided that: "Any vessel, to the extent that it is subject to the Small Passenger Carrying Vessel Act, May 10, 1956 (70 Stat. 151) [enacting sections 390 to 390g of this title, amending section 404 and former section 526f of this title and repealing section 520 of this title], or to any other vessel inspection statute of the United States, is exempt from the provisions of this Act [this chapter]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1481 of this title.

§ 1452. Definitions.

As used in this chapter, and unless the context otherwise requires—

(1) "Boat" means any vessel—

(A) manufactured or used primarily for noncommercial use; or

(B) leased, rented, or chartered to another for the latter's noncommercial use; or

(C) engaged in the carrying of six or fewer passengers.

(2) "Vessel" includes every description of watercraft, other than a seaplane on the water, used or

capable of being used as a means of transportation on the water.

(3) "Undocumented vessel" means a vessel which does not have and is not required a valid marine document as a vessel of the United States.

(4) "Use" means operate, navigate, or employ.

(5) "Passenger" means every person carried on board a vessel other than—

(A) the owner or his representative;

(B) the operator;

(C) bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services; or

(D) any guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly, or indirectly, for his carriage.

(6) "Owner" means a person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles him to such possession.

(7) "Manufacturer" means any person engaged in—

(A) the manufacture, construction, or assembly of boats or associated equipment; or

(B) the manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly; or

(C) the importation into the United States for sale of boats, associated equipment, or components thereof.

(8) "Associated equipment" means—

(A) any system, or component of a boat as originally manufactured or any similar part or component manufactured or sold for replacement, repair, or improvement of such system, part, or component;

(B) any accessory or equipment for, or appurtenance to, a boat; and

(C) any marine safety article, accessory, or equipment intended for use on board a boat; but

(D) excluding radio equipment.

(9) "Secretary" means the Secretary of the Department in which the Coast Guard is operating.

(10) "State" means a State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

(11) "Eligible State" means one that has a State boating safety program which has been accepted by the Secretary.

(Pub. L. 92–75, § 3, Aug. 10, 1971, 85 Stat. 214.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 2052.

§ 1453. Applicability of chapter.

(a) This chapter applies to vessels and associated equipment used, to be used, or carried in vessels used, on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for vessels owned in the United States.

(b) Sections 1454 through 1460 of this title and subsections (a) and (b) of section 1461 of this title are applicable also to boats moving or intended to be moved in interstate commerce.

(c) This chapter, except those sections where the content expressly indicates otherwise, does not apply to—

(1) foreign vessels temporarily using waters subject to United States jurisdiction;

(2) military or public vessels of the United States, except recreational-type public vessels;

(3) a vessel whose owner is a State or subdivision thereof, which is used principally for governmental purposes, and which is clearly identifiable as such;

(4) ships' lifeboats.

(Pub. L. 92–75, § 4, Aug. 10, 1971, 85 Stat. 215.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1461, 1465, 1484, 1486 of this title.

§ 1454. Safety regulations and standards for boats and equipment; effective date.

(a) The Secretary may issue regulations—

(1) establishing minimum safety standards for boats and associated equipment, and establishing procedures and tests required to measure conformance with such standards. Each standard shall be reasonable, shall meet the need for boating safety, and shall be stated, insofar as practicable, in terms of performance;

(2) requiring the installation, carrying, or using of associated equipment on boats and classes of boats subject to this chapter; and prohibiting the installation, carrying, or using of associated equipment which does not conform with safety standards established under this section. Equipment contemplated by this clause includes, but is not limited to, fuel systems, ventilation systems, electrical systems, navigational lights, sound producing devices, fire fighting equipment, lifesaving devices, signaling devices, ground tackle, life and grab rails, and navigational equipment.

(b) A regulation or standard issued under this section—

(1) shall specify an effective date which is not earlier than one hundred and eighty days from the date of issuance, except that this period shall be increased in the discretion of the Secretary to not more than eighteen months in any case involving major product design, retooling, or major changes in the manufacturing process, unless the Secretary finds that there exists a boating safety hazard so critical as to require an earlier effective date; what constitutes major product redesign, retooling, or major changes shall be determined by the Secretary;

(2) may not compel substantial alteration of a boat or item of associated equipment which is in existence, or the construction or manufacture of which is commenced before the effective date of the regulation; but subject to that limitation may require compliance or performance to avoid a substantial risk of personal injury to the public that the Secretary considers appropriate in relation to the degree of hazard that the compliance will correct; and

(3) shall be consistent with laws and regulations governing the installation and maintenance of sanitation equipment.

(Pub. L. 92–75, § 5, Aug. 10, 1971, 85 Stat. 215.)

CONTINUANCE OF REGULATIONS

Section 41(e) of Pub. L. 92–75 provided that: "Regulations previously issued under statutory provisions repealed, modified, or amended by this Act [enacting this chapter and notes thereunder, amending section 526u of this title and repealing sections 526f, 526*l*, 526m, 527–527h and notes thereunder] continue in effect as though promulgated under the authority of this Act until expressly abrogated, modified, or amended by the Secretary under the regulatory authority of this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453, 1455, 1457, 1459, 1464 of this title.

§ 1455. Prescribing regulations and standards.

In establishing a need for formulating and prescribing regulations and standards under section 1454 of this title, the Secretary shall, among other things—

(1) consider the need for and the extent to which the regulations or standards will contribute to boating safety;

(2) consider relevent available boat safety standards, statistics and data, including public and private research, development, testing, and evaluation;

(3) consider whether any proposed regulation or standard is reasonable and appropriate for the particular type of boat or associated equipment for which it is prescribed;

(4) consult with the Boating Safety Advisory Council established pursuant to section 1482 of this title regarding all of the foregoing considerations.

(Pub. L. 92–75, § 6, Aug. 10, 1971, 85 Stat. 216.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453, 1457, 1461, 1482 of this title.

§ 1456. Display of labels evidencing compliance.

The Secretary may require or permit the display of seals, labels, plates, insignia, or other devices for the purpose of certifying or evidencing compliance with Federal safety regulations and standards for boats and associated equipment. (Pub. L. 92–75, § 7, Aug. 10, 1971, 85 Stat. 216.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1453 of this title.

§ 1457. Delegation of examination, inspection and testing functions.

The Secretary may, subject to such regulations, supervision, and review as he may prescribe, delegate to any person, or private or public agency, or to any employee under the supervision of such person or agency, any work, business, or function respecting the examination, inspection, and testing necessary for compliance enforcement or for the development of data to enable the Secretary to prescribe and to issue regulations and standards, under sections 1454 and 1455 of this title. (Pub. L. 92–75, § 8, Aug. 10, 1971, 85 Stat. 216.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1453 of this title.

§ 1458. Exemptions.

The Secretary may, if he considers that boating safety will not be adversely affected, issue exemptions from any provision of this chapter or regulations and standards established thereunder, on terms and conditions as he considers appropriate. (Pub. L. 92–75, § 9, Aug. 10, 1971, 85 Stat. 217.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453, 1459 of this title.

§ 1459. Federal preemption in the issuance of standards.

Unless permitted by the Secretary under section 1458 of this title, no State or political subdivision thereof may establish, continue in effect, or enforce any provision of law or regulation which establishes any boat or associated equipment performance or other safety standard, or which imposes any requirement for associated equipment, except, unless disapproved by the Secretary, the carrying or using of marine safety articles to meet uniquely hazardous conditions or circumstances within the State, which is not identical to a Federal regulation issued under section 1454 of this title. (Pub. L. 92–75, § 10, Aug. 10, 1971, 85 Stat. 217.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1453 of this title.

§ 1460. Admission of nonconforming foreign-made boats.

The Secretary of the Treasury and the Secretary may, by joint regulations, authorize the importation of a nonconforming boat or associated equipment upon terms and conditions, including the furnishing of bond, which will assure that the boat or associated equipment will be brought into conformity with the applicable Federal safety regulations and standards before it is used on waters subject to the jurisdiction of the United States. (Pub. L. 92–75, § 11, Aug. 10, 1971, 85 Stat. 217.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1453 of this title.

§ 1461. Prohibited acts.

(a) Manufacture, importation of sale of nonconforming boats or equipment, except for exportation; false certification of compliance with standards; failure to give defect notification or remedy defect.

No person shall—

(1) manufacture, construct, assemble, introduce, or deliver for introduction in interstate commerce, or import into the United States, or if engaged in the business of selling or distributing boats or associated equipment, sell or offer for sale, any boat, associated equipment, or component thereof to be sold for subsequent assembly, unless—

(A) it conforms with regulations and standards prescribed under this chapter, or

(B) it is intended solely for export, and so labeled, tagged, or marked on the boat or equipment and on the outside of the container, if any, which is exported.

(2) affix, attach, or display a seal, label, plate, insignia, or other device indicating or suggesting compliance with Federal safety standards, on, in,

or with a boat or item of associated equipment, which is false or misleading;

(3) fail to furnish a notification as required by section 1464(a) of this title or exercise reasonable diligence in fulfilling the undertaking given pursuant to section 1464(c) of this title.

(b) Applicability of penalties.

No person shall be subject to any penalty contained in this section if he establishes that he did not have reason to know in the exercise of due care that a boat or associated equipment does not conform with applicable Federal boat safety standards, or who holds a certificate issued by the manufacturer of the boat or associated equipment to the effect that such boat or associated equipment conforms to all applicable Federal boat safety standards, unless such person knows or reasonably should have known that such boat or associated equipment does not so conform.

(c) Use of vessel in violation of regulations.

No person may use a vessel in violation of this chapter or regulations issued thereunder.

(d) Negligent use of vessel.

No person may use a vessel, including one otherwise exempted by section 1453(c) of this title, in a negligent manner so as to endanger the life, limb, or property of any person. Violations of this subsection involving use which is grossly negligent, subject the violator, in addition to any other penalties prescribed in this chapter, to the criminal penalties prescribed in section 1483 of this title.

(e) Use of vessel carrying passengers for hire, except in the charge of a licensed operator.

No vessel equipped with propulsion machinery of any type and not subject to the manning requirements of the vessel inspection laws administered by the Coast Guard, may while carrying passengers for hire, be used except in the charge of a person licensed for such service under regulations, prescribed by the Secretary, which pertain to qualifications, issuance, revocation, or suspension, and related matters.

(f) Applicability of licensed operator requirement.

Subsection (e) of this section shall not apply to any vessel being used for bona fide dealer demonstrations furnished without fee to business invitees. However, if on the basis of substantial evidence the Secretary determines, pursuant to section 1455 of this title, that requiring vessels so used to be under the control of licensed persons is necessary to meet the need for boating safety, then the Secretary may promulgate regulations requiring the licensing of persons controlling such vessels in the same manner as provided in subsection (e) of this section for persons in control of vessels carrying passengers for hire. (Pub. L. 92–75, § 12, Aug. 10, 1971, 85 Stat. 217.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453, 1483, 1484 of this title.

§ 1462. Termination of unsafe use.

If a Coast Guard boarding officer observes a boat being used without sufficient lifesaving or firefighting devices or in an overloaded or other unsafe condition as defined in regulations of the Secretary, and in his judgment such use creates an especially hazardous condition, he may direct the operator to take whatever immediate and reasonable steps would be necessary for the safety of those aboard the vessel, including directing the operator to return to mooring and to remain there until the situation creating the hazard is corrected or ended. (Pub. L. 92–75, § 13, Aug. 10, 1971, 85 Stat. 218.)

§ 1463. Inspection, investigation and reporting; trade secrets provided to Secretary in confidence.

(a) Every manufacturer subject to the provisions of this chapter shall establish and maintain records, make reports, and provide information as the Secretary may reasonably require to enable him to determine whether the manufacturer has acted or is acting in compliance with this chapter and the regulations issued thereunder. A manufacturer shall, upon request of an officer, employee, or agent authorized by the Secretary, permit the officer, employee, or agent to inspect at reasonable times factories or other facilities, books, papers, records, and documents relevant to determining whether the manufacturer has acted or is acting in compliance with this chapter and the regulations issued thereunder.

(b) All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (a) of this section containing or relating to a trade secret or other matter referred to in section 1905 of Title 18 or authorized to be exempted from public disclosure by section 552(b) of Title 5, shall be considered confidential for the purpose of that section of Title 18, except that, upon approval by the Secretary, such information may be disclosed to other officers, employees, or agents concerned with carrying out this chapter or when relevant in any proceeding under this chapter. (Pub. L. 92–75, § 14, Aug. 10, 1971, 85 Stat. 218.)

§ 1464. Repair or replacement of defects.

(a) Notification by manufacturer.

Every manufacturer who discovers or acquires information which he determines, in the exercise of reasonable and prudent judgment, indicates that a boat or associated equipment subject to an applicable standard or regulation prescribed pursuant to section 1454 of this title either fails to comply with such standard or regulation, or contains a defect which creates a substantial risk of personal injury to the public, shall, if such boat or associated equipment has left the place of manufacture, furnish notification of such defect or failure of compliance as provided in subsections (b) and (c) of this section, within a reasonable time after the manufacturer has discovered the defect.

(b) Persons to be notified and manner of notification.

The notification required by subsection (a) of this section shall be given to the following persons in the following manner—

(1) by certified mail to the first purchaser for purposes other than resale: *Provided*, That the requirement for notification of such first purchaser shall be satisfied if the manufacturer exercises reasonable diligence in creating and maintaining a list of such purchasers and their current addresses and sends the required notice to each person on said list at the address appearing thereon;

(2) by certified mail to subsequent purchasers if known to the manufacturer;

(3) by certified mail or other more expeditious means to the dealers or distributors of such manufacturer to whom such boat or associated equipment was delivered.

(c) Contents of notification.

The notification required by subsection (a) of this section shall contain a clear description of such defect or failure to comply, an evaluation of the hazard reasonably related thereto, a statement of the measures to be taken to correct such defect or failure to comply, and an undertaking by the manufacturer to take such measures at his sole cost and expense.

(d) Copy of notification for Secretary; public disclosure by Secretary.

Every manufacturer shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to dealers or distributors of such manufacturer or to purchasers, or subsequent purchasers, of boats or associated equipment of such manufacturer, regarding any defect relating to safety in such boats or associated equipment or any failure to comply with a standard, regulation, or order applicable to such boat or associated equipment. The Secretary may publish or otherwise disclose to the public so much of the information contained in such notices or other information in his possession as he deems will assist in carrying out the purposes of this chapter, but shall not disclose any information which contain or relates to a trade secret unless he determines that it is necessary to carry out the purposes of this chapter.

(e) Determination of defect by Secretary; notice to manufacturer and notification by manufacturer; proceeding where manufacturer disputes Secretary's findings.

If through testing, inspection, investigation, research, or examination of reports carried out pursuant to this chapter the Secretary determines that any boat or associated equipment subject to this chapter—

(1) fails to comply with an applicable standard or regulation prescribed pursuant to section 1454 of this title; or

(2) contains a defect which relates to safety,

and if the Secretary determines that notification provided under this section is appropriate, he shall notify the manufacturer of the boat or associated equipment of such defect or failure to comply. The notice shall contain the findings of the Secretary and shall include a synopsis of the information upon which the findings are based. Upon receipt of such notice, the manufacturer shall furnish the notification described in subsection (c) of this section to the persons designated in subsection (b) of this section, unless the manufacturer disputes the Secretary's determination, in which case the Secretary shall afford such manufacturer an opportunity to present his views to establish that there is no failure of compliance or defect relating to safety. Where the Secretary determines it is in the public interest, he may publish notice of such proceeding in the Federal Register and afford interested persons, including the Boating Safety Advisory Council, an opportunity to comment thereon. If after such presentation by the manufacturer the Secretary determines that such boat or associated equipment does not comply with an applicable standard or regulation, or that it contains a defect related to safety, the Secretary may direct the manufacturer to furnish the notification specified in subsection (c) of this section to the persons specified in subsection (b) of this section.

(f) "Associated equipment".

For purposes of this section, the term "associated equipment" includes only such items or classes of associated equipment as the Secretary shall by regulation or order prescribe after determining that the application of the requirements of this section to such items or classes of associated equipment is reasonable, appropriate, and in furtherance of the purposes of this chapter.

(g) Rule making powers of Secretary.

The Secretary is authorized to promulgate regulations defining and establishing procedures and otherwise furthering the purposes of this section. (Pub. L. 92–75, § 15, Aug. 10, 1971, 85 Stat. 219.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1461, 1484 of this title.

§ 1465. Rendering of assistance in casualties; liability exemption.

(a) The operator of a vessel, including one otherwise exempted by section 1453(c) of this title, involved in a collision, accident, or other casualty, to the extent he can do so without serious danger to his own vessel, or persons aboard, shall render all practical and necessary assistance to persons affected by the collision, accident, or casualty to save them from danger caused by the collision, accident, or casualty. He shall also give his name, address, and the identification of his vessel to any person injured and to the owner of any property damaged. The duties imposed by this subsection are in addition to any duties otherwise imposed by law.

(b) Any person who complies with subsection (a) of this section or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty without objection of any person assisted, shall not be held liable for any civil damages as a result of the rendering of assistance or for any act or omission in providing or arranging salvage, towage, medical treatment, or other assistance where the assisting person acts as an ordinary, reasonably prudent man would have acted under the same or similar circumstances. (Pub. L. 92–75, § 16, Aug. 10, 1971, 85 Stat. 220.)

§ 1466. Vessels requiring numbering.

An undocumented vessel equipped with propulsion machinery of any type shall have a number issued by the proper issuing authority in the State in which the vessel is principally used. (Pub. L. 92–75, § 17, Aug. 10, 1971, 85 Stat. 220.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1472 of this title.

§ 1467. Standard numbering system.

(a) Promulgation by Secretary; approval of State numbering system.

The Secretary shall establish by regulation a standard numbering system for vessels. Upon appli-

cation by a State, the Secretary shall approve a State numbering system which is in accord with the standard numbering system and the provisions of this chapter relating to numbering and casualty reporting. A State with an approved system is the issuing authority under this chapter. The Secretary is the issuing authority in States where a State numbering system has not been approved.

(b) Limitations on prior numbering systems of a State.

If a State has a numbering system approved by the Secretary under the Act of September 2, 1958 (72 Stat. 1754), as amended, prior to enactment hereof, the system need not be immediately revised to conform with this chapter and may continue in effect without change for a period not to exceed three years from the date of enactment of this chapter.

(c) Numbered vessel as in compliance when temporarily used in any State.

When a vessel is actually numbered in the State of principal use, it shall be considered as in compliance with the numbering system requirements of any State in which it is temporarily used.

(d) Limited recognition of previously issued number by new State of principal use.

When a vessel is removed to a new State of principal use, the issuing authority of that State shall recognize the validity of a number awarded by any other issuing authority for a period of at least sixty days before requiring numbering in the new State.

(e) Limited recognition by State of previously issued Federal Number.

If a State has a numbering system approved after the effective date of this chapter, that State must accept and recognize any certificate of number issued by the Secretary, as the previous issuing authority in that State, for one year from the date that State's system is approved, or until its expiration date, at the option of the State.

(f) Withdrawal of approval of State numbering system.

Whenever the Secretary determines that a State is not administering its approved numbering system in accordance with the standard numbering system or has altered its system without his approval, he may withdraw his approval after giving notice to the State, in writing, setting forth specifically wherein the State has failed to meet the standard required, and the State has not corrected such failures within a reasonable time after being notified by the Secretary. (Pub. L. 92–75, § 18, Aug. 10, 1971, 85 Stat. 220.)

REFERENCES IN TEXT

The Act of September 2, 1958 (72 Stat. 1754), as amended, referred to in subsec. (b), was Pub. L. 85–911 and was known as the Federal Boating Act of 1958 which enacted section 527 et seq. of this title, added section 526u of this title, amended former section 526*l* and section 526*o* of this title, and repealed, eff. Apr. 1, 1960, sections 288 and 526t of this title. Such Act was itself repealed, except for section 6(b) and (c) thereof [amending section 526*o* of this title and adding section 526u of this title], by section 41(a)(2) of Pub. L. 92–75, Aug. 10, 1971, 85 Stat. 228.

Reference to a numbering system approved prior to "enactment hereof" and "date of enactment of this chapter" in subsec. (b), and reference to a numbering system approved after the "effective date of this chapter" in subsec. (e), have reference to Aug. 10, 1971.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1472 of this title.

§ 1468. Exemption from numbering provisions.

(a) The Secretary, when he is the issuing authority, may exempt a vessel or class of vessels from the numbering provisions of this chapter under such conditions as he may prescribe.

(b) When a State is the issuing authority, it may exempt from the numbering provisions of this chapter any vessel or class of vessels that has been exempted under subsection (a) of this section or otherwise as permitted by the Secretary. (Pub. L. 92–75, § 19, Aug. 10, 1971, 85 Stat. 221.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1472 of this title

§ 1469. Description and possession of certificate of number; transfer of interest in vessel; notice of change of address.

(a) A certificate of number granted under this chapter shall be pocket size, shall be at all times available for inspection on the vessel for which issued when the vessel is in use, and may not be valid for more than three years. The certificate of number for vessels less than twenty-six feet in length and leased or rented to another for the latter's noncommercial use of less than twenty-four hours may be retained on shore by the vessel's owner or his representative at the place from which the vessel departs or returns to the possession of the owner or his representative. A vessel which does not have the certificate of number on board shall be identified while in use, and comply with such other requirements, as the issuing authority prescribes.

(b) The owner of a vessel numbered under this chapter shall furnish to the issuing authority notice of the transfer of all or part of his interest in the vessel, or of the destruction or abandonment of the vessel, within a reasonable time thereof, and shall furnish notice of any change of address within a reasonable time of the change, in accordance with prescribed regulations. (Pub. L. 92–75, § 20, Aug. 10, 1971, 85 Stat. 221.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1472 of this title.

§ 1470. Display of number.

A number required by this chapter shall be painted on, or attached to, each side of the forward half of the vessel for which it was issued, and shall be of the size, color, and type as may be prescribed by the Secretary. No other number may be carried on the forward half of the vessel. (Pub. L. 92–75, § 21, Aug. 10, 1971, 85 Stat. 221.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1472 of this title.

§ 1471. Safety certificates.

When a State is the issuing authority it may require that the operator of a numbered vessel hold a valid safety certificate issued under terms and conditions set by the issuing authority. (Pub. L. 92–75, § 22, Aug. 10, 1971, 85 Stat. 222.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1472 of this title.

§ 1472. Promulgation of regulations dealing with numbering and casualty reporting.

The issuing authority may prescribe regulations and establish fees to carry out the intent of sections 1466 through 1473 of this title and section 1486 of this title. A State issuing authority may impose only terms and conditions for vessel numbering (1) which are prescribed by this chapter or the regulations of the Secretary concerning the standard numbering system, or (2) which relate to proof of payment of State or local taxes. (Pub. L. 92–75, § 23, Aug. 10, 1971, 85 Stat. 222.)

§ 1473. Furnishing of vessel numbering and registration information.

Any person may request from an issuing authority vessel numbering and registration information which is retrievable from vessel numbering system records of the issuing authority. When the issuing authority is satisfied that the request is reasonable and related to a boating safety purpose, the information shall be furnished upon payment by such person of the cost of retrieval and furnishing of the information requested. (Pub. L. 92–75, § 24, Aug. 10, 1971, 85 Stat. 222.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1472 of this title.

§ 1474. Establishment and acceptance of State boating safety programs.

In order to encourage greater State participation and consistency in boating safety efforts, and particularly greater safety patrol and enforcement activities, the Secretary may accept State boating safety programs directed at implementing and supplementing this chapter. Acceptance is necessary for a State to receive full rather than partial Federal financial assistance under this chapter. The Secretary may also make Federal funds available to an extent permitted by section 1476(d) of this title to national nonprofit public service organizations for national boating safety programs and activities which he considers to be in the public interest. (Pub. L. 92–75, § 25, Aug. 10, 1971, 85 Stat. 222.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1476 of this title.

§ 1475. Boating safety program content.

(a) The Secretary shall accept a State boating safety program which—

(1) incorporates a State vessel numbering system previously approved under this chapter or includes such a numbering system as part of the proposed boating safety program;

(2) includes generally the other substantive content of the Model State Boat Act as approved by the National Association of State Boating Law Administrators in conjunction with the Council of State Governments, or is in substantial conformity therewith, or conforms sufficiently to insure uniformity and promote comity among the several jurisdictions;

(3) provides for patrol and other activity to assure enforcement of the State boating safety laws and regulations;

(4) provides for boating safety education programs;

(5) designates the State authority or agency which will administer the boating safety program and the allocated Federal funds; and

(6) provides that the designated State authority or agency will submit reports in the form prescribed by the Secretary.

(b) The requirements of subparagraph (a)(2) of this section shall be liberally construed to permit acceptance where the general intent and purpose of such requirements are met and nothing contained therein is in any way intended to discourage a State program which is more extensive or comprehensive than suggested herein, particularly with the regard to safety patrol and enforcement activity commensurate with the amount and type of boating activity within the State, and with regard to public boat safety education, and experimental program which could enhance boating safety. (Pub. L. 92–75, § 26, Aug. 10, 1971, 85 Stat. 222.)

§ 1476. Allocation of Federal funds.

(a) The Secretary shall allocate the amounts appropriated to the several States as soon as practicable after July 1 of each fiscal year for which the funds are appropriated.

(b) In order to encourage and assist the States in the development of boating safety programs during the first three fiscal years for which funds are available under this chapter, the funds shall be allocated among applying States having a boating safety program, or which indicate to the Secretary their intention to establish boating safety programs in accordance with section 1474 of this title. One-half of the funds shall be allocated equally among the applying States. The other half shall be allocated to each applying State in the same ratio as the number of vessels propelled by machinery numbered in that State bears to the number of such vessels numbered in all applying States.

(c) In fiscal years after the third fiscal year for which funds are available under this chapter the moneys appropriated shall be allocated among applying States. Of the total available funds one-third shall be allocated each year equally among applying States. One-third shall be allocated so that the amount each year to each applying eligible State will be in the same ratio as the number of vessels numbered in that State, under a numbering system approved under this chapter, bears to the number of such vessels numbered in all applying eligible States. The remaining one-third shall be allocated so that the amount each year to each applying eligible State shall be in the same ratio as the State funds expended or obligated for the State boating safety program during the previous fiscal year by a State bears to the total State funds expended or obligated for that fiscal year by all the applying eligible States.

(d) The Secretary may allocate not more than 5 per centum of funds appropriated in any fiscal year for national boating safety activities of one or more national nonprofit-public service organizations. (Pub. L. 92–75, § 27, Aug. 10, 1971, 85 Stat. 223.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1474, 1477, 1480 of this title.

§ 1477. Allocation of funds.

(a) Limitations.

Notwithstanding the allocation ratios prescribed in section 1476 of this title, the Federal share of the total annual cost of a State's boating safety program may not exceed 75 per centum in fiscal year 1972, 66⅔ per centum in fiscal year 1973, 50 per centum in fiscal year 1974, 40 per centum in fiscal year 1975, and 33⅓ per centum in fiscal year 1976. No State may receive more than 5 per centum of the Federal funds appropriated or available for allocation in any fiscal year.

(b) Unobligated funds.

Amounts allocated to a State shall be available for obligation by that State for a period of three years following the date of allocation. Funds unobligated by the State at the expiration of the three-year period shall be withdrawn by the Secretary and shall be available with other funds to be allocated by the Secretary during that fiscal year.

(c) Unallocated funds.

Funds available to the Secretary which have not been allocated at the end of a fiscal year shall be carried forward as part of the total allocation funds for the next fiscal year for which appropriations are authorized by this chapter. (Pub. L. 92–75, § 28, Aug. 10, 1971, 85 Stat. 223.)

§ 1478. Determination of State funds expended for boating safety program.

In accordance with regulations prescribed by the Secretary computation by a State of funds expended or obligated for the boating safety program shall include the acquisition, maintenance, and operating costs of facilities, equipment, and supplies; personnel salaries and reimbursable expenses; the costs of training personnel; public boat safety education; the costs of administering the program; and other expenses which the Secretary considers appropriate. The Secretary shall determine any issues which arise in connection with such computation. (Pub. L. 92–75, § 29, Aug. 10, 1971, 85 Stat. 224.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1480 of this title.

§ 1479. Authorization of appropriations for State boating safety programs.

For the purpose of providing financial assistance for State boating safety programs there is authorized to be appropriated $7,500,000 for the fiscal year ending June 30, 1972, and $7,500,000 for each of the four succeeding fiscal years, such appropriations to remain available until expended. (Pub. L. 92–75, § 30, Aug. 10, 1971, 85 Stat. 224.)

§ 1480. Payments of amounts allocated to the States.

(a) Method.

Amounts allocated under section 1476 of this title shall be computed and paid to the States as follows:

(1) During the first three fiscal years that funds are available the Secretary shall schedule the initial payment to each State at the earliest possible time after application and compliance with section 1476(b) of this title.

(2) For fiscal years after the third fiscal year for which funds are available, the Secretary shall determine during the last quarter of a fiscal year, on the basis of computations made pursuant to section 1478 of this title and submitted by the States, the percentage of the funds available for the next fiscal year to which each eligible State shall be entitled. Notice of the percentage and of the dollar amount, if it can then be determined, for each State shall be furnished to the States at the earliest practicable time. If the Secretary finds that an amount made available to a State for a prior year is greater or less than the amount which should have been made available to that State for the prior year, because of later or more accurate State expenditure information, the amount for the current fiscal year may be increased or decreased by the appropriate amount.

(b) Scheduling of payments.

Notwithstanding any other provision of law, the Secretary shall schedule the payment of funds consistent with the program purposes and applicable Treasury regulations, so as to minimize the time elapsing between the transfer of funds from the United States Treasury and the subsequent disbursement thereof by a State.

(c) Termination upon failure to comply.

Whenever the Secretary, after reasonable notice to the designated State authority or agency, finds that—

(1) the boating safety program submitted by the State and accepted by the Secretary has been so changed that it no longer complies with this chapter or standards established by regulations thereunder; or

(2) in the administration of the boating safety program, there has been a failure to comply substantially with the standards established by the regulations;

the Secretary shall notify the State authority or agency that no further payments will be made to the State until the program conforms to the established standards or the failure is corrected.

(d) Records, availability for audit.

The Secretary shall, by regulation, provide for such accounting, budgeting, and other fiscal procedures as are necessary and reasonable for the proper and efficient administration of this section. The Secretary and the Comptroller General of the United States shall have access for the purpose of audit and examination, to any books, documents, papers, and records that are pertinent to Federal funds allocated under this chapter. (Pub. L. 92–75, § 31, Aug. 10, 1971, 85 Stat. 224.)

§ 1481. Consultation and cooperation.

(a) In carrying out his responsibilities under this chapter the Secretary may consult with State and local governments, public and private agencies, organizations and committees, private industry, and other persons having an interest in boating and boating safety.

(b) The Secretary may advise, assist, and cooperate with the States and other interested public and private agencies, in the planning, development, and execution of boating safety programs. Acting under the authority of section 141 of Title 14, and consonant with the policy defined in section 1451 of this

title, the Secretary shall insure the fullest cooperation between the State and Federal authorities in promoting boating safety by entering into agreements and other arrangements with the State whenever possible. Subject to the provisions of chapter 23, Title 14, he may make available, upon request from a State, the services of members of the Coast Guard Auxiliary to assist the State in the promotion of boating safety on State waters. (Pub. L. 92–75, § 32, Aug. 10, 1971, 85 Stat. 225.)

§ 1482. Boating Safety Advisory Council.

(a) Establishment; membership.

The Secretary shall establish a National Boating Safety Advisory Council (hereinafter referred to as "the Council"), which shall not exceed twenty-one members, whom the Secretary considers to have a particular expertise, knowledge, and experience in boating safety. Insofar as practical, to assure balanced representation, members shall be drawn equally from (1) State officials responsible for State boating safety programs, (2) boat and associated equipment manufacturers, and (3) boating organizations and members of the general public. Additional persons from those sources may be appointed to panels to the Council which will assist the Council in the performance of its functions.

(b) Consultation with Secretary.

In addition to the consultation required by section 1455 of this title the Secretary shall consult with the Council on any other major boat safety matters related to this chapter.

(c) Compensation.

Members of the Council or panels may be compensated at a rate not to exceed the rate provided for Federal classified employees of grade GS–18 when engaged in the duties of the Council. Members, while away from their homes or regular places of business, may be allowed travel expenses, including a per diem in lieu of subsistence as authorized by section 5703 of Title 5 for persons in the Government service employed intermittently. Payments under this section shall not render members of the Council employees or officials of the United States for any purposes. (Pub. L. 92–75, § 33, Aug. 10, 1971, 85 Stat. 225.)

REFERENCE IN TEXT

The rate provided for Federal classified employees of grade GS–18, referred to in subsec. (c), is set out under section 5332 of Title 5, Government Organizations and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1455 of this title.

§ 1483. Criminal penalties.

Any person who willfully violates section 1461(c) of this title or the regulations issued thereunder shall be fined not more than $1,000 for each violation or imprisoned not more than one year, or both. (Pub. L. 92–75, § 34, Aug. 10, 1971, 85 Stat. 226.)

SAVINGS PROVISIONS

Section 41(f) of Pub. L. 92–75 provided that: "Any criminal or civil penalty proceeding under the Motorboat Act of 1940, as amended [which is Act Apr. 25, 1940, c. 155, 54 Stat. 165, and is classified to section 526 et seq. of this title], or the Federal Boating Act of 1958, as amended [which was Pub. L. 85–911, Sept. 2, 1958, 72 Stat. 1754 and was classified to section 527 et seq. of this title], for a violation which occurred before the effective date of this Act [Aug. 10, 1971] may be initiated and continue to conclusion as though the former Acts had not been amended or repealed hereby."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1461 of this title.

§ 1484. Civil penalties.

(a) Violation of provisions dealing with construction standards, labeling, and manufacturer's obligation to give notice and remedy defects.

In addition to any other penalty prescribed by law any person who violates section 1461(a) of this title shall be liable to a civil penalty of not more than $2,000 for each violation, except that the maximum civil penalty shall not exceed $100,000 for any related series of violations. Whenever any corporation violates section 1461(a) of this title, any director, officer, or executive employee of such corporation who knowingly and willfully ordered or knowingly and willfully authorized such violation shall be individually liable to the civil penalties contained herein, in addition to the corporation: *Provided, however,* That no such director, officer, or executive employee shall be individually liable under this subsection if he can demonstrate, by a preponderance of the evidence, (1) that said order or authorization was issued on the basis of a determination, in the exercise of reasonable and prudent judgment, that the nonconformity with standards and regulations constituting such violation would not cause or constitute a substantial risk of personal injury to the public, and (2) that at the time of said order or authorization he advised the Secretary in writing of his action under this proviso.

(b) Violation of any other provision of this chapter or regulations issued thereunder.

In addition to any other penalty prescribed by law any person who violates any other provision of this chapter or the regulations issued thereunder shall be liable to a civil penalty of not more than $500 for each violation. If the violation involves the use of a vessel, the vessel, except as exempted by section 1453(c) of this title, shall be liable and may be proceeded against in the district court of any district in which the vessel may be found.

(c) Discretionary powers of Secretary.

The Secretary may assess and collect any civil penalty incurred under this chapter and, in his discretion, remit, mitigate, or compromise any penalty prior to referral to the Attorney General. Subject to approval by the Attorney General, the Secretary may engage in any proceeding in court for that purpose, including a proceeding under subsection (d) of this section. In determining the amount of any penalty to be assessed hereunder, or the amount agreed upon in any compromise, consideration shall be given to the appropriateness of such penalty in light of the size of the business of the person charged, the gravity of the violation and the extent to which the person charged has complied with the provisions of section 1464 of this title or has otherwise attempted to remedy the consequences of the said violation.

(d) Collection referral.

When a civil penalty of not more than $200 has been assessed under this chapter, the Secretary may refer the matter for collection of the penalty directly to the Federal magistrate of the jurisdiction wherein

the person liable may be found for collection procedures under supervision of the district court and pursuant to order issued by the court delegating such authority under section 636(b) of Title 28. (Pub. L. 92–75, § 35, Aug. 10, 1971, 85 Stat. 226.)

SAVINGS PROVISIONS

Any criminal or civil penalty proceeding under the Motorboat Act of 1940, as amended, section 526 et seq. of this title, or the Federal Boating Act of 1958, as amended, former section 527 et seq. of this title, for a violation which occurred before Aug. 10, 1971, to be initiated and continue to conclusion as though the former Acts had not been amended or repealed by Pub. L. 92–75, Aug. 10, 1971, 85 Stat. 213, see section 41(f) of Pub. L. 92–75, set out as a note under section 1483 of this title.

§ 1485. Injunctive proceedings.

The United States district courts shall have jurisdiction to restrain violations of this chapter, or to restrain the sale, offer for sale, or the introduction or delivery for introduction, in interstate commerce, or the importation into the United States, of any boat or associated equipment which is determined not to conform to Federal boat safety standards, upon petition by the Attorney General on behalf of the United States. Whenever practicable, the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views, and except in the case of knowing and willful violation, shall afford him a reasonable opportunity to achieve compliance. The failure to give notice and afford such opportunity does not preclude the granting of appropriate relief. (Pub. L. 92–75, § 36, Aug. 10, 1971, 85 Stat. 227.)

§ 1486. Casualty reporting systems.

(a) Promulgation by Secretary.

The Secretary shall prescribe a uniform vessel casualty reporting system for vessels subject to this chapter, including those otherwise exempted by paragraphs (1), (3), and (4) of section 1453(c) of this title.

(b) State reports to Secretary.

A State vessel numbering system and boating safety program approved under this chapter shall provide for the reporting of casualties and accidents involving vessels. A State shall compile and transmit to the Secretary reports, information, and statistics on casualties and accidents reported to it.

(c) Fatal casualties; casualties in the order of gravity.

A vessel casualty reporting system shall provide for the reporting of all marine casualties involving vessels indicated in subsection (a) of this section and resulting in the death of any person. Marine casualties which do not result in loss of life shall be classified according to the gravity thereof, giving consideration to the extent of the injuries to persons, the extent of property damage, the dangers which casualties create, and the size, occupation or use, and the means of propulsion of the boat involved. Regulations shall prescribe the casualties to be reported and the manner of reporting.

(d) Reporting of casualties.

The owner or operator of a boat or vessel indicated in subsection (a) of this section and involved in a casualty or accident shall report the casualty or accident to the Secretary in accordance with regulations prescribed under this section unless he is required to report to a State under a State system approved under this chapter.

(e) Publication of reports and recommendations.

The Secretary shall collect, analyze, and publish reports, information, or statistics together with such findings and recommendations as he considers appropriate. If a State accident reporting system provides that information derived from accident reports, other than statistical, shall be unavailable for public disclosure, or otherwise prohibits use by the State or any person in any action or proceeding against an individual, the Secretary may utilize the information or material furnished by a State only in like manner. (Pub. L. 92–75, § 37, Aug. 10, 1971, 85 Stat. 227.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1472 of this title.

§ 1487. Authorization of appropriations.

There is authorized to be appropriated amounts as may be necessary to administer the provisions of this chapter. (Pub. L. 92–75, § 38, Aug. 10, 1971, 85 Stat. 227.)

§ 1488. Rules and regulations.

The Secretary may issue regulations necessary or appropriate to carry out the purposes of this chapter. (Pub. L. 92–75, § 39, Aug. 10, 1971, 85 Stat. 228.)

§ 1489. Savings provision.

Compliance with this chapter or standards, regulations, or orders promulgated hereunder shall not relieve any person from liability at common law or under State law. (Pub. L. 92–75, § 40, Aug. 10, 1971, 85 Stat. 228.)